



State of Louisiana
Louisiana Department of Health
Office of the Secretary

May 10, 2023

Via Statutorily Prescribed Email

To: The Honorable Fred H. Mills, Jr., Chairman, Senate Health & Welfare Committee
The Honorable Larry Bagley, Chairman, House Health & Welfare Committee

From:  Dr. Courtney N. Phillips
Secretary

Re: Second Report to LAC 50:I.2103 – Dental Benefits Prepaid Ambulatory Health Plan Participation Requirements

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the Home Health Program – Authorizing Authority and Emergency Provisions, LAC 50:XIII.Chapter 1.

A Notice of Intent on the proposed amendments was published in the March 20, 2022 issue of the *Louisiana Register* (LR 49:537). No written comments were received and there was no request for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:966B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the March 20, 2023, Notice of Intent when it is published as a final rule in the June 20, 2023, issue of the *Louisiana Register*.

Please contact Kevin Guillory, Kevin.Guillory@la.gov, if you have any questions or require additional information about this matter.

Cc: Tara LeBlanc, Medicaid Director, LDH
Kolynda Parker, Medicaid Deputy Director, LDH
Brandon Bueche, Medicaid Program Manager, LDH
Veronica Dent, Medicaid Program Manager, LDH
Bethany Blackson, Legislative Liaison, LDH
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part I. Administration
Subpart 3. Managed Care for Physical
and Behavioral Health
Chapter 21. Dental Benefits Prepaid Ambulatory
Health Plan

§2103. Participation Requirements

A. - G. ...

H. In the event of noncompliance with the contract and the department's guidelines, a DBPM shall be subject to the sanctions specified in the terms of the contract including, but not limited to:

1. corrective action plans;
2. monetary penalties; or
3. suspension and/or termination of the DBPM's contract.

I. - I.3. Repealed.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, Bureau of Health Services Financing, LR 40:784 (April 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 46:1228 (September 2020), LR 49:

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 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, no direct or indirect cost to the provider to provide the same

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Dental Benefits Prepaid Ambulatory Health Plan
Participation Requirements
(LAC 50:1.2103)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:1.2103 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 proposes to amend the provisions governing the dental benefits prepaid ambulatory health plan in order to remove language that allows for a retainage of funds from the per member, per month capitation payment to the dental benefit plan manager (DBPM) as surety for performance under the contract, since funds are withheld under the current DBPM contract for specific penalties.

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 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 May 1, 2023.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on April 10, 2023. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on April 27, 2023 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after April 10, 2023. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. 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

RULE TITLE: Dental Benefits Prepaid Ambulatory Health Plan—Participation Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 22-23. It is anticipated that \$540 (\$270 SGF and \$270 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 have no effect on revenue collections other than the federal share of the promulgation costs for FY 22-23. It is anticipated that \$270 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 NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing the dental benefits prepaid ambulatory health plan in order to remove language that allows for a retainage of funds from the per member, per month capitation payment to the dental benefit plan manager (DBPM) as surety for performance under the

contract, since funds are withheld under the current DBPM contract for specific penalties. It is anticipated that implementation of this proposed rule will not result in costs to DBPMs in FY 22-23, FY 23-24, and FY 24-25, but will be beneficial by ensuring that the administrative rule aligns with the current DBPM contract requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2303#051

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office



State of Louisiana
Louisiana Department of Health
Office of the Secretary

May 10, 2023

Via Statutorily Prescribed Email

To: The Honorable Fred H. Mills, Jr., Chairman, Senate Health & Welfare Committee
The Honorable Larry Bagley, Chairman, House Health & Welfare Committee
The Honorable Mack "Bodi" White, Chairman, Senate Finance Committee
The Honorable Jerome "Zee" Zeringue, Chairman, House Appropriations Committee

From:  Dr. Courtney N. Phillips
Secretary

Re: Second Report to LAC 50:XXI.12101 – Home and Community-Based Services Waivers
Children’s Choice Waiver – Direct Service Worker Wages and Bonus Payments

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the Home and Community-Based Services Waivers Children’s Choice Waiver – Direct Service Worker Wages and Bonus Payments, LAC 50:XXI.12101.

A Notice of Intent (NOI) on the proposed amendments was published in the September 20, 2022 issue of the *Louisiana Register* (LR 49:2418). Substantive changes were made to the September 20, 2022 NOI due to public comments and LDH published a Potpourri notice in the March 20, 2023 issue of the *Louisiana Register* (LR 49:613) noting the substantive changes to the NOI, and a public hearing was conducted concerning the substantive changes on April 27, 2023, as noted in the Potpourri.

Unless otherwise directed, the Department anticipates adopting the September 20, 2022 NOI as amended by the Potpourri published in the March 20, 2023 Potpourri, when it is published as a final rule in the June 20, 2023, issue of the *Louisiana Register*.

Please contact Layne Janet, Layne.Janet@la.gov, if you have any questions or require additional information about this matter.

Cc: Tara LeBlanc, Medicaid Director, LDH
Melinda Richard, OAAS Assistant Secretary, LDH
Kirsten Clebert, LDH OAAS Policy Division Director
Brian Bennett, LDH Medicaid Program Manager
Veronica Dent, Medicaid Program Manager, LDH
Bethany Blackson, Legislative Liaison, LDH
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

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

Home and Community-Based Services Waivers
Children's Choice Waiver
Direct Service Worker Wages and Bonus Payments
(LAC 50:XXI.12101)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities proposes to amend LAC 50:XXI.12101 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 Children's Choice Waiver services to home and community-based services (HCBS) waiver participants under section 9817 of the American Rescue Plan.

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 reimbursement in the Children's Choice Waiver in order to establish workforce retention bonus payments for direct service workers and support coordination providers along with audit procedures and sanctions (*Louisiana Register*, Volume 48, Number 8). This proposed Rule is being promulgated to continue the provisions of the July 31, 2022 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

**Part XXI. Home and Community-Based Services
Waivers**

Subpart 9. Children's Choice Waiver

Chapter 121. Reimbursement Methodology

§12101. Unit of Reimbursement

A. ...

1. Establishment of Support Coordination Workforce Retention Bonus Payments

a. Support coordination providers providing services on or after April 1, 2021 shall receive bonus payments of \$150 per month for each support coordination worker that worked with participants for that month. These payments will remain in effect for each month thereafter that the support coordination worker works with participants and is still employed with that agency.

b. The support coordination worker that worked with participants on or after April 1, 2021 must receive at least \$125 of this \$150 bonus payment paid to the provider. This bonus payment is effective for all affected support coordination workers of any working status, whether full-time or part-time.

c. 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.

d. LDH reserves the right to adjust the amount of the bonus payments paid to the support coordination workers as needed through appropriate rulemaking promulgation consistent with the Administrative Procedure Act.

2. Audit Procedures for Support Coordination Workforce Retention Bonus Payments

a. The bonus payments reimbursed to support coordination providers shall be subject to audit by LDH.

b. Support coordination providers shall provide to LDH or its representative all requested documentation to verify that they are in compliance with the support coordination bonus payments.

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

d. Support coordination providers shall produce the requested documentation upon request and within the time frame provided by LDH.

e. Noncompliance or failure to demonstrate that the bonus payments were paid directly to support coordination workers may result in the following:

- i. sanctions; or
- ii. disenrollment from the Medicaid Program.

3. Sanctions for Support Coordination Workforce Retention Bonus Payments

a. The support coordination provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend upon the following factors:

- i. failure to pay support coordination workers the \$125 monthly bonus payments;
- ii. the number of employees identified as having been paid less than the \$125 monthly workforce retention bonus payments;
- iii. the persistent failure to pay the \$125 monthly bonus payments; or
- iv. failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this Rule.

B. - B.3. ...

4. Direct Service Worker Wages and Workforce Retention Bonus Payments

a. Establishment of Direct Service Worker Wage Floor for Medicaid Home and Community-Based Services for Intellectual and Developmental Disabilities

i. Effective October 1, 2021, providers of Medicaid home and community-based waiver services operated through the Office for Citizens with Developmental Disabilities employing direct service workers will receive the equivalent of a \$2.50 per hour rate increase.

ii. Effective October 1, 2021, this increase or its equivalent will be applied to all service units provided by direct service workers with an effective date of service for the identified home and community-based waiver services provided beginning October 1, 2021.

iii. The minimum hourly wage floor paid to direct service workers shall be \$9 per hour.

iv. All providers of services affected by this rate increase shall be subject to a direct service worker wage floor of \$9 per hour. This wage floor is effective for all affected direct service workers of any work status, whether full-time or part-time.

v. The Department of Health reserves the right to adjust the direct service worker wage floor as needed through appropriate rulemaking promulgation consistent with the Administrative Procedure Act.

b. Establishment of Direct Service Worker Workforce Retention Bonus Payments.

i. Providers providing services on or after April 1, 2021 shall receive bonus payments of \$150 per month for each direct service worker that worked with participants for that month. These payments will remain in effect for each month thereafter that the direct service worker works with participants and is still employed with that agency.

ii. The direct service worker providing services on or after April 1, 2021 that worked with participants must receive at least \$125 of this \$150 bonus payment paid to providers. This bonus payment is effective for all affected direct service workers of any working status, whether full-time or part-time.

iii. 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.

iv. LDH reserves the right to adjust the amount of the bonus payments paid to the direct service worker as needed through appropriate rulemaking promulgation consistent with the Administrative Procedure Act.

v. - v.(b). Repealed.

c. Audit Procedures for Direct Service Worker Wage Floor and Workforce Retention Bonus Payments

i. The wage enhancement and bonus payments reimbursed to providers shall be subject to audit by LDH.

(a). - (d). Repealed.

ii. Providers shall provide to the LDH or its representative all requested documentation to verify that they are in compliance with the direct service wage floor and bonus payments.

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

iv. Providers shall produce the requested documentation upon request and within the timeframe provided by the LDH.

v. Non-compliance or failure to demonstrate that the wage enhancement and/or bonus payments were paid directly to the direct service workers may result in the following:

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

d. Sanctions for Direct Service Worker Wage Floor and Workforce Retention Bonus Payments

i. The provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend upon the following factors:

(a). failure to pay I/DD HCBS direct service workers the floor minimum of \$9 per hour and/or the \$125 monthly bonus payments;

(b). the number of employees identified as having been paid less than the floor minimum of \$9 per hour and/or the \$125 monthly bonus;

(c). the persistent failure to pay the floor minimum go \$9 per hour and/or 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 and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1987 (September 2002). LR 33:1872 (September 2007), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:250 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:324 (February 2010), LR 36:2280 (October 2010), LR 37:2157 (July 2011), LR 39:2504 (September 2013), LR 40:68 (January 2014), LR 41:128 (January 2015), LR 42:896 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:40 (January 2022), LR 48:1544 (June 2022), 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 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

RULE TITLE: Home and Community-Based Waivers Children's Choice Waiver Direct Service Worker Wages and Bonus Payments

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will result in estimated programmatic costs of approximately \$1,541,219 for FY 22-23 and \$630,802 for FY 23-24. It is anticipated that \$1,188 (\$594 SGF and \$594 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed and 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 \$3,432,937 for FY 22-23 and \$1,281,878 for FY 23-24. It is anticipated that \$594 will be collected for the federal share of the expense for promulgation of the proposed and final rule.

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

This proposed rule continues the provisions of the July 31, 2022 Emergency Rule, which established workforce retention bonus payments in the Children's Choice Waiver for direct service workers and support coordination providers, along with audit procedures and sanctions. The use of bonus payments has

been authorized by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) under Section 9817 of the American Rescue Plan Act of 2021. These increased payments will ensure that the Children's Choice Waiver providers continue rendering services to waiver participants in the Medicaid Program. Implementation of this proposed rule is anticipated to increase expenditures for Children's Choice Waiver services by approximately \$4,972,968 for FY 22-23 and \$1,912,680 for FY 23-24.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2209#043

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

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

Public Hearing-Substantive Changes to Proposed Rule
Home and Community-Based Services Waivers
Children's Choice Waiver
Direct Service Worker Wages and Bonus Payments
(LAC 50:XXI.12101)

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 published a Notice of Intent in the September 20, 2022 edition of the *Louisiana Register* (LR 48:2418-2421) to amend LAC 50:XXI.12101 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Notice of Intent proposed to amend provisions governing reimbursement in

the Children's Choice Waiver in order to establish workforce bonus payments for direct service workers and support coordination providers along with audit procedures and sanctions. Upon further discussion with various stakeholders, the department published a Potpourri announcing substantive revisions to the provisions of the September 20, 2022 Notice of Intent (*Louisiana Register*, Volume 49, Number 1). The department subsequently decided not to proceed with the substantive revisions proposed in the January 20, 2023 Potpourri.

This Potpourri announces substantive changes to the provisions proposed in the September 20, 2022 Notice of Intent.

Taken together, all of these revisions to the September 20, 2022 Notice of Intent will closely align the proposed Rule with the department's original intent and address the concerns brought forth during subsequent discussions with stakeholders relative to the Notice of Intent as originally published.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community-Based Services

Waivers

Subpart 9. Children's Choice Waiver

Chapter 121. Reimbursement Methodology

§12101. Unit of Reimbursement

A. ...

1. Establishment of Support Coordination Workforce Bonus Payments

a. Support coordination providers who provided services from April 1, 2021 to October 31, 2022 shall receive bonus payments of \$300 per month for each support coordination worker that worked with participants for those months..

b. The support coordination worker who provided services to participants from April 1, 2021 to October 31, 2022 must receive at least \$250 of this \$300 bonus payment paid to the provider. This bonus payment is effective for all eligible support coordination workers of any working status, whether full-time or part-time.

c. - d. Repealed.

2. Audit Procedures for Support Coordination Workforce Bonus Payments

a. - e.ii. ...

3. Sanctions for Support Coordination Workforce Bonus Payments

a. The support coordination provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend upon the following factors:

i. failure to pay support coordination workers the \$250 monthly workforce bonus payments;

ii. the number of employees identified as having been paid less than the \$250 monthly workforce bonus payments;

iii. the persistent failure to pay the \$250 monthly workforce bonus payments;

A.3.a.iv. - B.3. ...

4. Direct Service Worker Wages and Workforce Bonus Payments

a. - a.iv. ...

b. Establishment of Direct Service Worker Workforce Bonus Payments.

i. Providers who provided services from April 1, 2021 to October 31, 2022 shall receive bonus payments of \$300 per month for each direct service worker that worked with participants for those months.

ii. Direct service workers who provided services from April 1, 2021 to October 31, 2022 that worked with participants must receive at least \$250 of this \$300 bonus payment paid to providers. This bonus payment is effective for all eligible direct service workers of any working status, whether full-time or part-time.

iii. Bonus payments will end October 31, 2022.

iv. ...

v. - v.(b). Repealed.

c. Audit Procedures for Direct Service Worker Wage Floor and Workforce Bonus Payments

i. ...

(a) - (d). Repealed.

ii. - v.(b). ...

d. Sanctions for Direct Service Worker Wage Floor and Workforce Bonus Payments

i. The provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend upon the following factors:

(a). Direct Service Worker Wage Floor;

(i). the failure to pay I/DD HCBS direct service workers the wage floor minimum of \$9 per hour;

(ii). the number of I/DD HCBS direct service workers identified as having been paid less than the wage floor minimum of \$9 per hour; or

(iii). the persistent failure to pay I/DD HCBS direct service workers the wage floor minimum of \$9 per hour;

(b). Direct Service Worker Workforce Bonus Payments;

(i). the failure to pay eligible I/DD HCBS direct service workers the \$250 monthly workforce bonus payments;

(ii). the number of eligible I/DD HCBS direct service workers who are identified as having been not been paid the \$250 monthly workforce bonus payments; or

(iii). the persistent failure to pay eligible I/DD HCBS direct service workers the monthly \$250 monthly workforce bonus payments; or

(c). failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this Rule.

(d). 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 28:1987 (September 2002), LR 33:1872 (September 2007), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:250 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:324 (February 2010), LR 36:2280 (October 2010), LR 37:2157 (July 2011), LR 39:2504 (September 2013), LR 40:68 (January 2014), LR 41:128

(January 2015), LR 42:896 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:40 (January 2022), LR 48:1544 (June 2022), LR 49:

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 these substantive changes to the proposed Rule.

Public Hearing

A public hearing on the substantive changes to the proposed Rule is scheduled for Thursday, April 27, 2023 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m., May 1, 2023.

Dr. Courtney N. Phillips
Secretary

2303#059



State of Louisiana
Louisiana Department of Health
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
April 27, 2023
9:30 a.m.

RE: Public Hearing – Substantive Changes to Proposed Rule
Home and Community-Based Services Waivers
Children’s Choice Waiver
Direct Service Worker Wages and Bonus Payments
Docket #04272023-01
Department of Health
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on April 27, 2023 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

Medicaid Policy and Compliance
Section

April 27, 2023
Date

LDH/BHSF PUBLIC HEARING

Topic – Public Hearing – Substantive Changes to Proposed Rule – Home and Community-Based Services
 Waivers – Children’s Choice Waiver – Direct Service Worker Wages and Bonus Payments
Date – April 27, 2023

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Yolande Ellis	LDH	225.342-3930	LDH-Policy & Compliance
2. Allen Enger	Bienville Bldg.	225-342-1342	LDH
3. Denise Boyz	"	225-342-5647	LDH - ODDD DHH
4. Erin Downing	"	342-8878	OCDD
5. Ed Harris	"	219-3326	OCDD
6. Amanda Daigne	"	225-733-3106	LDH - MPSU



State of Louisiana
Louisiana Department of Health
Office of the Secretary

May 10, 2023

Via Statutorily Prescribed Email

To: The Honorable Fred H. Mills, Jr., Chairman, Senate Health & Welfare Committee
The Honorable Larry Bagley, Chairman, House Health & Welfare Committee

From: *Dr. Phillips* Dr. Courtney N. Phillips
Secretary

Re: Second Report to LAC 50:XXI.8107 – Home and Community-Based Services
Waivers – Community Choices Waiver – Resource Assessment and Allocation
Process

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the Home and Community-Based Services Waivers – Community Choices Waiver – Resource Assessment and Allocation Process, LAC 50:XXI.8107.

A Notice of Intent on the proposed amendments was published in the March 20, 2022 issue of the *Louisiana Register* (LR 49:538). No written comments were received and there was no request for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:966B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the March 20, 2023, Notice of Intent when it is published as a final rule in the June 20, 2023, issue of the *Louisiana Register*.

Please contact Layne Janet, Layne.Janet@la.gov, if you have any questions or require additional information about this matter.

Cc: Tara LeBlanc, Medicaid Director, LDH
Melinda Richard, OAAS Assistant Secretary, LDH
Kirsten Clebert, OAAS Policy Division Director, LDH
Veronica Dent, Medicaid Program Manager, LDH
Bethany Blackson, Legislative Liaison, LDH
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing
and
Office of Aging and Adult Services**

**Home and Community-Based Services Waivers
Community Choices Waiver
Resource Assessment and Allocation Process
(LAC 50:XXI.8107)**

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:XXI.8107 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 Office of Aging and Adult Services (OAAS) currently uses an updated version of the uniform international resident assessment instrument (interRAI) tool to determine nursing facility level of care for OAAS programs. The Department of Health, Bureau of Health Services Financing and OAAS propose to amend the provisions governing the resource assessment and allocation process in the Community Choices Waiver in order to update the language regarding interRAI assessments.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XXI. Home and Community-Based Services

Waivers

Subpart 7. Community Choices Waiver

Chapter 81. General Provisions

§8107. Resource Assessment and Allocation Process

A. Each Community Choices Waiver applicant/participant shall be assessed using the uniform international resident assessment instrument (interRAI). This assessment provides researched and validated measures of an individual's functional status. The assessment is used to verify if an individual meets nursing facility level of care and generates a resource utilization group (RUG) score. This score is used to establish an individual's services and supports budget.

B. The RUG score assigns an individual to one of 23 distinct groups in seven major groupings. Individuals are assigned to a group based on a hierarchy and are assigned to the highest group for which they qualify. The following

seven major groupings will be utilized to determine the waiver assistance needed to complete various activities of daily living (ADLs) and instrumental activities of daily living (IADLs).

1. **Special Rehabilitation.** Individuals in this group had at least 120 minutes of rehabilitation therapy (physical, occupational and/or speech) within the seven days prior to the interRAI assessment.

2. **Extensive Services.** Individuals in this group received one or more of the following services and have an ADL index of 7 or more:

- a. tracheostomy;
- b. ventilator or respirator;
- c. suctioning;
- d. parenteral/IV feeding only;
- e. combined oral and parenteral/tube feeding; or
- f. IV medications.

3. **Special Care.** Individuals in this group must meet one of the following criteria:

a. have one of the following conditions or treatments and have an ADL index of 7 or greater:

- i. stage 3 or 4 pressure ulcers and turning/positioning program;
- ii. combined oral and parenteral/tube feeding or nasogastric feeding only and aphasia;
- iii. fever with either vomiting, weight loss, dehydration, nasogastric tube or parenteral feeding, or pneumonia; or
- iv. radiation therapy; or

b. have one of the following conditions and have an ADL index of 10 or greater:

- i. cerebral palsy;
 - ii. multiple sclerosis;
 - iii. quadriplegia; or
- c. are receiving one of the extensive care services (as listed in B.2 above) and have an ADL index of 6 or less.
- d. - h. iv. Repealed.

4. **Clinically Complex.** Individuals in this group have one of the following conditions or treatments:

- a. septicemia;
- b. dehydration;
- c. hemiplegia and an ADL index of 10 or greater;
- d. pneumonia;
- e. end-stage disease;
- f. comatose (confirmed by totally dependent in the four ADLs used in the ADL index);
- g. foot problems that limit/prevent walking;
- h. gastrointestinal (GI) or genitourinary (GU) bleeding;
- i. diabetes;
- j. combined oral and parenteral/tube feeding or nasogastric tube feeding only;
- k. chemotherapy;
- l. dialysis;
- m. transfusions;
- n. oxygen therapy; or
- o. one of the special care conditions or treatments listed in 3.a above and an ADL index of 6 or less.

5. **Impaired Cognition.** Individuals in this group have a cognitive performance scale of 3 or more and an ADL index of 10 or less.

6. **Behavior Problems.** Individuals in this group have one or more of the following behavior problems and an ADL index of 10 or less:

- a. wandering;
- b. verbally abusive;
- c. physically abusive;
- d. socially inappropriate/disruptive;
- e. resists care;
- f. sexually inappropriate;
- g. hallucinations; or
- h. delusions.

7. **Physical Function.** Individuals who did not meet the criteria for any of the previous categories.

C. Based on the RUG score, the applicant/participant is assigned to one of the distinct groups and is eligible for a set annual services budget associated with that group.

1. If the applicant/participant disagrees with their annual services budget, they or their responsible representative may request a fair hearing to appeal the decision.

2. The applicant/participant may qualify for an increase in the annual services budget amount upon showing that:

- a. one or more responses on the assessment are recorded incorrectly (except for the responses in the identification information, personal intake and initial history, assessment date and reason, and/or signature sections); or
- b. they need an increase in the annual services budget to avoid entering into a nursing facility.

D. Each Community Choices Waiver participant shall be re-assessed at least annually.

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 of Aging and Adult Services, LR 37:3518 (December 2011), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:1896 (October 2018), LR 49:

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 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, 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 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 May 1, 2023.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on April 10, 2023. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on April 27, 2023 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after April 10, 2023. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. 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**

**RULE TITLE: Home and Community-Based Services
Waivers—Community Choices Waiver
Resource Assessment and Allocation Process**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 22-23. It is anticipated that \$972 (\$486 SGF and \$486 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 have no effect on revenue collections other than the

federal share of the promulgation costs for FY 22-23. It is anticipated that \$486 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
NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule amends the provisions governing the resource assessment and allocation process in the Community Choices Waiver (CCW) in order to update the language to reflect the current version of the international resident assessment instrument (interRAI) tool used by the Office of Aging and Adult Services (OAAS) to determine nursing facility level of care for OAAS programs. It is anticipated that implementation of this proposed rule will not result in costs to CCW providers in FY 22-23, FY 23-24, and FY 24-25, but will be beneficial by ensuring that the current requirements for interRAI assessments are promulgated in the Louisiana Administrative Code.

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

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2303#052

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office



State of Louisiana
Louisiana Department of Health
Office of the Secretary

May 10, 2023

Via Statutorily Prescribed Email

To: The Honorable Fred H. Mills, Jr., Chairman, Senate Health & Welfare Committee
The Honorable Larry Bagley, Chairman, House Health & Welfare Committee
The Honorable Mack "Bodi" White, Chairman, Senate Finance Committee
The Honorable Jerome "Zee" Zeringue, Chairman, House Appropriations Committee


From: Dr. Courtney N. Phillips
Secretary

Re: Second Report to LAC 50:XXI.14301 – Home and Community-Based Services Waivers –
New Opportunities Waiver – Direct Service Worker Wages and Bonus Payments

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the Home and Community-Based Services Waivers – New Opportunities Waiver – Direct Service Worker Wages and Bonus Payments, LAC 50: XXI.14301.

A Notice of Intent (NOI) on the proposed amendments was published in the September 20, 2022 issue of the *Louisiana Register* (LR 49:2423). Substantive changes were made to the September 20, 2022 NOI due to public comments and LDH published a Potpourri notice in the March 20, 2023 issue of the *Louisiana Register* (LR 49:615) noting the substantive changes to the NOI, and a public hearing was conducted concerning the substantive changes on April 27, 2023, as noted in the Potpourri.

Unless otherwise directed, the Department anticipates adopting the September 20, 2022 NOI as amended by the Potpourri published in the March 20, 2023 *Louisiana Register*, when it is published as a final rule in the June 20, 2023, issue of the *Louisiana Register*.

Please contact Paul Rhorer, Paul.Rhorer@la.gov, and Erin Downing, at Erin.Downing@la.gov, if you have any questions or require additional information about this matter.

Cc: Tara LeBlanc, Medicaid Director, LDH
Julie Foster Hagan, OCDD Assistant Secretary, LDH
Brian Bennett, Medicaid Program Manager, LDH
Veronica Dent, Medicaid Program Manager, LDH
Bethany Blackson, Legislative Liaison, LDH
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

NOTICE OF INTENT

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

**Home and Community-Based Services Waivers
New Opportunities Waiver
Direct Service Worker Wages and Bonus Payments
(LAC 50:XXI.14301)**

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.14301 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 New Opportunities Waiver (NOW) services to home and community-based services (HCBS) waiver participants under section 9817 of the American Rescue Plan.

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 reimbursement in the New Opportunities Waiver in order to establish workforce retention bonus payments for direct service workers along with audit procedures and sanctions (*Louisiana Register*, Volume 48, Number 8). This proposed Rule is being promulgated to continue the provisions of the July 31, 2022 Emergency Rule.

Title 50

**PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services
Waivers**

Subpart 11. New Opportunities Waiver

Chapter 143. Reimbursement

§14301. Unit of Reimbursement

A. - E. ...

F. Direct Service Worker Wages and Bonus Payments

1. Establishment of Direct Service Worker Wage Floor for Medicaid Home and Community-Based Services for Intellectual and Developmental Disabilities

a. Effective October 1, 2021, providers of Medicaid home and community-based waiver services operated through the Office for Citizens with Developmental Disabilities employing direct service workers will receive the equivalent of a \$2.50 per hour rate increase.

b. Effective October 1, 2021, this increase or its equivalent will be applied to all service units provided by direct service workers with an effective date of service for

the identified home and community based waiver services provided beginning October 1, 2021.

c. The minimum hourly wage floor paid to direct service workers shall be \$9 per hour.

d. All providers of services affected by this rate increase shall be subject to a direct service worker wage floor of \$9 per hour. This wage floor is effective for all affected direct service workers of any work status, whether full-time, or part-time etc.

e. The Department of Health reserves the right to adjust the direct service worker wage floor as needed through appropriate rulemaking promulgation consistent with the Administrative Procedure Act.

2. Establishment of Direct Service Worker Workforce Retention Bonus Payments

a. Providers providing services on or after April 1, 2021 shall receive bonus payments of \$150 per month for each direct service worker that worked with participants for that month. These payments will remain in effect for each month thereafter that the direct service worker works with participants and is still employed with that agency.

b. The direct service worker providing services on or after April 1, 2021 that worked with participants must receive at least \$125 of this \$150 bonus payment paid to the provider. This bonus payment is effective for all affected direct service workers of any working status, whether full-time or part-time.

c. 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.

d. LDH reserves the right to adjust the amount of the bonus payments paid to the direct service worker as needed through appropriate rulemaking promulgation consistent with the Administrative Procedure Act.

e. - e.ii. Repealed.

3. Audit Procedures for Direct Service Worker Wage Floor and Workforce Retention Bonus Payments

a. wage enhancement and bonus payments reimbursed to providers shall be subject to audit by LDH.

i. - iv. Repealed.

b. Providers shall provide to the LDH or its representative all requested documentation to verify that they are in compliance with the direct service worker wage floor and bonus payments.

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

d. Providers shall produce the requested documentation upon request and within the timeframe provided by LDH.

e. Non-compliance or failure to demonstrate that the wage enhancement and/or bonus payments were paid directly to direct service workers may result in:

i. sanctions; or

ii. disenrollment from the Medicaid Program.

4. Sanctions for Direct Service Worker Wage Floor and Workforce Retention Bonus Payments

a. The provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend upon the following factors:

i. failure to pay I/DD HCBS direct service workers the floor minimum of \$9 per hour and/or the \$125 monthly bonus payments;

ii. the number of employees identified as having been paid less than the floor minimum of \$9 per hour and/or the \$125 monthly bonus payments;

iii. the persistent failure to pay the floor minimum of \$9 per hour and/or the \$125 monthly bonus payments; or

iv. failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this Rule.

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 of the Secretary, Bureau of Community Supports and Services, LR 30:1209 (June 2004), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:252 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1851 (September 2009), LR 36:1247 (June 2010), LR 37:2158 (July 2011), LR 39:1049 (April 2013), LR 40:80 (January 2014), LR 42:898 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 44:58 (January 2018), LR 45:44 (January 2019), LR 46:1682 (December 2020), LR 48:41 (January 2022), LR 48:1558 (June 2022), 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 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 RULE TITLE: Home and Community-Based Services Waivers—New Opportunities Waiver Direct Service Worker Wages and Bonus Payments

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have state programmatic fiscal costs of approximately \$17,374,013 for FY 22-23 and \$7,113,509 for FY 23-24. It is anticipated that \$972 (\$486 SGF and \$486 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 \$38,706,775 for FY 22-23 and \$14,455,651 for FY 23-24. It is anticipated that \$486 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 OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule continues the provisions of the July 31, 2022 Emergency Rule, which established workforce retention bonus payments in the New Opportunities Waiver (NOW) for direct service workers along with audit procedures and sanctions. The use of bonus payments has been authorized by the U.S. Department of Health and Human Services Centers for Medicare and Medicaid Services (CMS) under Section 9817 of the American Rescue Plan Act of 2021. These increased payments will ensure that NOW providers continue rendering services to waiver participants in the Medicaid Program. Implementation of this proposed rule is anticipated to increase expenditures for NOW services by approximately \$56,079,816 in FY 22-23 and \$21,569,160 in FY 23-24.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2209#045

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

concerns brought forth during subsequent discussions with stakeholders relative to the Notice of Intent as originally published.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community-Based Services

Waivers

Subpart 11. New Opportunities Waiver

Chapter 143. Reimbursement

§14301. Unit of Reimbursement

A. – E. ...

F. Direct Service Worker Wages and Workforce Bonus Payments

1. – 1.e. ...

2. Establishment of Direct Service Worker Workforce Bonus Payments

a. Providers who provided services from April 1, 2021 to October 31, 2022 shall receive bonus payments of \$300 per month for each direct service worker that worked with participants for those months.

b. The direct service worker who provided services to participants from April 1, 2021 to October 31, 2022 must receive at least \$250 of this \$300 bonus payment paid to the provider. This bonus payment is effective for all eligible direct service workers of any working status, whether full-time or part-time.

c. Bonus payments will end October 31, 2022.

d. ...

e. – e.ii. Repealed.

3. Audit Procedures for Direct Service Worker Wage Floor and Workforce Bonus Payments

a. The wage enhancement and bonus payments reimbursed to providers shall be subject to audit by LDH

i. – iv. Repealed.

b. – e.ii. ...

4. Sanctions for Direct Service Worker Wage Floor and Workforce Bonus Payments

a. The provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend upon the following factors:

i. Direct Service Worker Wage Floor

(a). failure to pay I/DD HCBS direct service workers the wage floor minimum of \$9 per hour;

(b). the number of I/DD HCBS direct service workers identified as having been paid less than the wage floor minimum of \$9 per hour; or

(c). the persistent failure to pay I/DD HCBS direct service workers the wage floor minimum of \$9 per hour;

ii. Direct Service Worker Workforce Bonus Payments

(a). failure to pay eligible I/DD HCBS direct service workers the \$250 monthly workforce bonus payments;

(b). the number of I/DD HCBS direct service workers identified as having not been paid the \$250 monthly workforce bonus payments; or

(c). the persistent failure to pay eligible I/DD HCBS direct service workers the \$250 monthly workforce bonus payments; or

POTPOURRI

Department of Health

Bureau of Health Services Financing

and

Office for Citizens with Developmental Disabilities

Public Hearing-Substantive Changes to Proposed Rule

Home and Community-Based Services Waivers

New Opportunities Waiver

Direct Service Worker Wages and Bonus Payments

(LAC 50:XXI.14301)

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 published a Notice of Intent in the September 20, 2022 edition of the *Louisiana Register* (LR 48:2423-2425) to amend LAC 50:XXI.14301 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Notice of Intent proposed to amend provisions governing reimbursement in the New Opportunities Waiver in order to establish workforce bonus payments for direct service workers and support coordination providers along with audit procedures and sanctions. Upon further discussion with various stakeholders, the department published a Potpourri announcing substantive revisions to the provisions of the September 20, 2022 Notice of Intent (*Louisiana Register*, Volume 49, Number 1). The department subsequently decided not to proceed with the substantive revisions proposed in the January 20, 2023 Potpourri.

This Potpourri announces substantive changes to the provisions proposed in the September 20, 2022 Notice of Intent.

Taken together, all of these revisions to the September 20, 2022 Notice of Intent will closely align the proposed Rule with the department's original intent and address the

iii. failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this Rule.

iv. Repealed.

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 of the Secretary, Bureau of Community Supports and Services, LR 30:1209 (June 2004), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:252 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1851 (September 2009), LR 36:1247 (June 2010), LR 37:2158 (July 2011), LR 39:1049 (April 2013), LR 40:80 (January 2014), LR 42:898 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 44:58 (January 2018), LR 45:44 (January 2019), LR 46:1682 (December 2020), LR 48:41 (January 2022), LR 48:1558 (June 2022), LR 49:

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 these substantive changes to the proposed Rule.

Public Hearing

A public hearing on the substantive changes to the proposed Rule is scheduled for Thursday, April 27, 2023 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m., May 1, 2023.

Dr. Courtney N. Phillips
Secretary

2303#060

John Bel Edwards
GOVERNOR



Dr. Courtney N. Phillips
SECRETARY

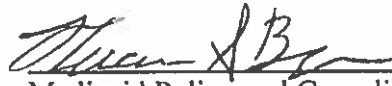
State of Louisiana
Louisiana Department of Health
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
April 27, 2023
9:30 a.m.

RE: Public Hearing – Substantive Changes to Proposed Rule
Home and Community-Based Services Waivers
New Opportunities Waiver
Direct Service Worker Wages and Bonus Payments
Docket #04272023-02
Department of Health
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on April 27, 2023 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.


Medicaid Policy and Compliance
Section

April 27, 2023

Date

LDH/BHSF PUBLIC HEARING

Topic – Public Hearing – Substantive Changes to Proposed Rule – Home and Community-Based Services
 Waivers – New Opportunities Waiver – Direct Service Worker Wages and Bonus Payments

Date – April 27, 2023

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Allen ENGER	Bionville Bldg	225-342-1342	LDH
2. Denise Boyd	"	225-342-5647	LDH-OCDD
3. Traey Joshua-Gn	Bionville Bldg	225 342 0943	LDH-OCDD
4. Erin Downing	"	225-342-8948	"
5. Ed Harris	" "	225-319-3326	
6. Amanda Daigre	" "	225-733-3100	LDH-MPSW



State of Louisiana
Louisiana Department of Health
Office of the Secretary

May 10, 2023

Via Statutorily Prescribed Email

To: The Honorable Fred H. Mills, Jr., Chairman, Senate Health & Welfare Committee
The Honorable Larry Bagley, Chairman, House Health & Welfare Committee
The Honorable Mack "Bodi" White, Chairman, Senate Finance Committee
The Honorable Jerome "Zee" Zeringue, Chairman, House Appropriations Committee


From: Dr. Courtney N. Phillips
Secretary

Re: Second Report to LAC 50:XXI.16903 and 16905 – Home and Community-Based Services Waivers – Residential Options Waiver – Direct Service Worker Wages and Bonus Payments

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the LAC 50:XXI.16903 and 16905 – Home and Community-Based Services Waivers – Residential Options Waiver – Direct Service Worker Wages and Bonus Payments.

A Notice of Intent (NOI) on the proposed amendments was published in the September 20, 2022 issue of the *Louisiana Register* (LR 49:2425). Substantive changes were made to the September 20, 2022 NOI due to public comments and LDH published a Potpourri notice in the March 20, 2023 issue of the *Louisiana Register* (LR 49:616) noting the substantive changes to the NOI, and a public hearing was conducted concerning the substantive changes on April 27, 2023, as noted in the Potpourri.

Unless otherwise directed, the Department anticipates adopting the September 20, 2022 NOI as amended by the Potpourri published in the March 20, 2023 *Louisiana Register*, when it is published as a final rule in the June 20, 2023, issue of the *Louisiana Register*.

Please contact Paul Rhorer, Paul.Rhorer@la.gov, and Erin Downing, at Erin.Downing@la.gov, if you have any questions or require additional information about this matter.

Cc: Tara LeBlanc, Medicaid Director, LDH
Julie Foster Hagan, LDH OCDD Assistant Secretary
Brian Bennett, LDH Medicaid Program Manager
Veronica Dent, Medicaid Program Manager, LDH
Bethany Blackson, Legislative Liaison, LDH
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

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
Direct Service Worker Wages and Bonus Payments
(LAC 50:XXI.16903 and 16905)**

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.16903 and adopt §16905 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 Residential Options Waiver (ROW) services to home and community-based services (HCBS) waiver participants under section 9817 of the American Rescue Plan.

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities promulgated an Emergency Rule which amended and adopted provisions governing reimbursement in the ROW in order to establish workforce retention bonus payments for direct service workers and support coordination providers 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 XXI. Home and Community-Based Services
Waivers**

Subpart 13. Residential Options Waiver

Chapter 169. Reimbursement

**§16903. Direct Service Worker Wages and Bonus
Payments**

A. Establishment of Direct Service Worker Wage Floor for Medicaid Home and Community Based Services for Intellectual and Developmental Disabilities

1. Effective October 1, 2021, providers of Medicaid home and community-based waiver services operated through the Office for Citizens with Developmental Disabilities employing direct service workers will receive the equivalent of a \$2.50 per hour rate increase.

2. Effective October 1, 2021, this increase or its equivalent will be applied to all service units provided by direct service workers with an effective date of service for the identified home and community based waiver services provided beginning October 1, 2021.

3. The minimum hourly wage floor paid to direct service workers shall be \$9 per hour.

4. All providers of services affected by this rate increase shall be subject to a direct service worker wage floor of \$9 per hour. This wage floor is effective for all affected direct service workers of any work status, whether full-time or part-time.

5. The Department of Health reserves the right to adjust the direct service worker wage floor as needed through appropriate rulemaking promulgation consistent with the Louisiana Administrative Procedure Act.

B. Establishment of Direct Service Worker Workforce Retention Bonus Payments

1. Providers providing services on or after April 1, 2021 shall receive bonus payments of \$150 per month for each direct service worker that worked with participants for that month. These payments will remain in effect for each month thereafter that the direct service worker works with participants and is still employed with that agency.

2. The direct service worker providing services on or after April 1, 2021 that worked with participants must receive at least \$125 of this \$150 bonus payment paid to the provider. This bonus payment is effective for all affected direct service workers 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 direct service worker as needed through appropriate rulemaking promulgation consistent with the Administrative Procedure Act.

5 - 5.b. Repealed.

C. Audit Procedures for Direct Service Worker Wage Floor and Workforce Retention Bonus Payments

1. The wage enhancement and bonus payments reimbursed to providers shall be subject to audit by LDH.

a. - d. Repealed.

2. Providers shall provide to LDH or its representative all requested documentation to verify that they are in compliance with the direct service worker wage floor and bonus payments.

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

4. Providers shall produce the requested documentation upon request and within the timeframe provided by LDH.

5. Non-compliance or failure to demonstrate that the wage enhancement and/or bonus payments were paid directly to direct service workers may result in the following:

a. sanctions; or

b. disenrollment from the Medicaid Program.

D. Sanctions for Direct Service Worker Wage Floor and Workforce Retention Bonus Payments

1. The provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend upon the following factors:

a. failure to pay I/DD HCBS direct service workers the floor minimum of \$9 per hour and/or the \$125 monthly bonus payments;

b. the number of employees identified as having been paid less than the floor minimum of \$9 per hour and/or the \$125 monthly bonus payments;

c. the persistent failure to pay the floor minimum of \$9 per hour and/or 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 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 41:2169 (October 2015), 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 48:42 (January 2022), LR 48:

§16905. Support Coordination

A. Establishment of Support Coordination Workforce Retention Bonus Payments

1. Support coordination providers providing services on or after April 1, 2021 shall receive bonus payments of \$150 per month for each support coordination worker that worked with participants for that month. These payments will remain in effect for each month thereafter that the support coordination worker works with participants and is still employed with that agency.

2. The support coordination worker that worked with participants on or after April 1, 2021 must receive at least \$125 of this \$150 bonus payment paid to the provider. This bonus payment is effective for all affected support coordination workers 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 support coordination workers as needed through appropriate rulemaking promulgation consistent with the Administrative Procedure Act.

B. Audit Procedures for Support Coordination Workforce Retention Bonus Payments

1. The bonus payments reimbursed to support coordination providers shall be subject to audit by LDH.

2. Support coordination providers shall provide to LDH or its representative all requested documentation to verify that they are in compliance with the support coordination bonus payments.

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

4. Support coordination providers shall produce the requested documentation upon request and within the timeframe provided by the LDH.

5. Noncompliance or failure to demonstrate that the bonus payments were paid directly to support coordination workers may result in the following:

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

C. Sanctions for Support Coordination Workforce Retention Bonus Payments

1. The support coordination provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend upon the following factors:

- a. failure to pay support coordination workers 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 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 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
RULE TITLE: Home and Community-Based Services
Waivers—Residential Options Waiver
Direct Service Worker Wages and Bonus Payments**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will result in increased state costs of approximately \$1,116,192 for FY 22-23 and \$456,776 for FY 23-24. It is anticipated that \$1,188 (\$594 SGF and \$594 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 \$2,486,022 for FY 22-23 and \$928,234 for FY 23-24. It is anticipated that \$594 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 OR NONGOVERNMENTAL
GROUPS (Summary)**

This proposed rule continues the provisions of the July 31, 2022 Emergency Rule, which established workforce retention bonus payments in the Residential Options Waiver (ROW) for direct service workers and support coordination providers, along with audit procedures and sanctions. The use of bonus payments has been authorized by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) under Section 9817 of the American Rescue Plan Act of 2021. These increased payments will ensure that ROW providers continue rendering services to waiver participants in the Medicaid Program. Implementation of this proposed rule is anticipated to increase expenditures for ROW services by approximately \$3,601,026 for FY 22-23 and \$1,385,010 for FY 23-24.

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

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2209#046

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

Options Waiver in order to establish workforce bonus payments for direct service workers and support coordination providers along with audit procedures and sanctions. Upon further discussion with various stakeholders, the department published a Potpourri announcing substantive revisions to the provisions of the September 20, 2022 Notice of Intent (*Louisiana Register*, Volume 49, Number 1). The department subsequently decided not to proceed with the substantive revisions proposed in the January 20, 2023 Potpourri.

This Potpourri announces substantive changes to the provisions proposed in the September 20, 2022 Notice of Intent.

Taken together, all of these revisions to the September 20, 2022 Notice of Intent will closely align the proposed Rule with the department's original intent and address the concerns brought forth during subsequent discussions with stakeholders relative to the Notice of Intent as originally published.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services
Waivers

Subpart 13. Residential Options Waiver
Chapter 169. Reimbursement
§16903. Direct Service Worker Wages and Bonus
Payments

A. - A.5. ...

B. Establishment of Direct Service Worker Workforce Bonus Payments

1. Providers who provided services from April 1, 2021 to October 31, 2022 shall receive bonus payments of \$300 per month for each direct service worker that worked with participants for those months.

2. The direct service worker who provided services to participants from April 1, 2021 to October 31, 2022 must receive at least \$250 of this \$300 bonus payment paid to the provider. This bonus payment is effective for all eligible direct service workers of any working status, whether full-time or part-time.

3. Bonus payments will end October 31, 2022.

4. ...

5. - 5.b. Repealed.

C. Audit Procedures for Direct Service Worker Wage Floor and Workforce Bonus Payments

1. ...

a. - d. Repealed.

2. - 5.b. ...

D. Sanctions for Direct Service Worker Wage Floor and Workforce Bonus Payments

1. The provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend upon the following factors:

a. Direct Service Worker Wage Floor

i. failure to pay I/DD HCBS direct service workers the wage floor minimum of \$9 per hour;

ii. the number of I/DD HCBS direct service workers identified as having been paid less than the wage floor minimum of \$9 per hour; or

iii. the persistent failure to pay I/DD HCBS direct service workers the wage floor minimum of \$9 per hour;

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

Public Hearing-Substantive Changes to Proposed Rule
Home and Community-Based Services Waivers
Residential Options Waiver
Direct Service Worker Wages and Bonus Payments
(LAC 50:XXI.16903 and 16905)

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 published a Notice of Intent in the September 20, 2022 edition of the *Louisiana Register* (LR 48:2425-2428) to amend LAC 50:XXI.16903 and adopt §16905 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Notice of Intent proposed to amend and adopt provisions governing reimbursement in the Residential

b. Direct Service Worker Workforce Bonus Payments

i. failure to pay eligible I/DD HCBS direct service workers the \$250 monthly workforce bonus payments;

ii. the number of eligible I/DD HCBS direct service workers who are identified as having not been paid the \$250 monthly workforce bonus payments; or

iii. the persistent failure to pay wage eligible I/DD HCBS direct service workers the \$250 monthly workforce bonus payments; or

c. failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this Rule.

d. 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 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2169 (October 2015), 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 48:42 (January 2022), LR 49:

§16905. Support Coordination

A. Establishment of Support Coordination Workforce Bonus Payments

1. Support coordination providers who provided services from April 1, 2021 to October 31, 2022 shall receive bonus payments of \$300 per month for those months for each support coordination worker that worked with participants for those months.

2. The support coordination worker who provided services to participants from April 1, 2021 to October 31, 2022 must receive at least \$250 of this \$300 bonus payment paid to the provider. This bonus payment is effective for all eligible support coordination workers of any working status, whether full-time or part-time.

3. – 4. Repealed.

B. Audit Procedures for Support Coordination Workforce Bonus Payments

1. – 5.b. ...

C. Sanctions for Support Coordination Workforce Bonus Payments

1. The support coordination provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend upon the following factors:

a. failure to pay support coordination workers the \$250 monthly workforce bonus payments;

b. the number of employees identified as having been paid less than the \$250 monthly workforce bonus payments;

c. the persistent failure to pay the \$250 monthly workforce bonus payments; or

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, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:

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 these substantive changes to the proposed Rule.

Public Hearing

A public hearing on the substantive changes to the proposed Rule is scheduled for Thursday, April 27, 2023 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m., May 1, 2023.

Dr. Courtney N. Phillips
Secretary

2303#061



State of Louisiana
Louisiana Department of Health
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION

April 27, 2023

9:30 a.m.

RE: Public Hearing – Substantive Changes to Proposed Rule
Home and Community-Based Services Waivers
Residential Options Waiver
Direct Service Worker Wages and Bonus Payments
Docket #04272023-03
Department of Health
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on April 27, 2023 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.


Medicaid Policy and Compliance
Section

April 27, 2023

Date

LDH/BHSF PUBLIC HEARING

Topic – Public Hearing – Substantive Changes to Proposed Rule – Home and Community-Based Services Waivers – Residential Options Waiver – Direct Service Worker Wages and Bonus Payments
Date – April 27, 2023

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Ladricka H. Minor	Bienville Building 628 N. 4th St. Baton Rouge, LA	(225) 342-3881	LDH Policy and Compliance
2. ALLEN ENGEL	BIENVILLE BLDG	225-342-1342	LDH
3. Tracy Joshua-Guy	Bienville Bldg	225 342 0943	OCDD
4. Derek Buz	"	342-5647	OCDD
5. ERIN DOWNING	"	342-8878	OCDD
6. Ed Harris	"	225-219-3326	OCDD

LDH/BHSF PUBLIC HEARING

Topic – Public Hearing – Substantive Changes to Proposed Rule -- Home and Community-Based Services
 Waivers – Residential Options Waiver – Direct Service Worker Wages and Bonus Payments

Date – April 27, 2023

Name	Address	Telephone Number	AGENCY or GROUP you represent
7. Amanda Daigre	Bismville	733-3126	CDH - MPSW
8.			
9.			
10.			
11.			
12.			



State of Louisiana
Louisiana Department of Health
Office of the Secretary

May 10, 2023

Via Statutorily Prescribed Email

To: The Honorable Fred H. Mills, Jr., Chairman, Senate Health & Welfare Committee
The Honorable Larry Bagley, Chairman, House Health & Welfare Committee

From:  Dr. Courtney N. Phillips
Secretary

Re: Second Report to LAC 50:XXI.6101 – Home and Community-Based Services Waivers –
Supports Waiver – Direct Service Worker Wages and Bonus Payments

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the Home and Community-Based Services Waivers – Supports Waiver – Direct Service Worker Wages and Bonus Payments, LAC 50:XXI.6101.

A Notice of Intent (NOI) on the proposed amendments was published in the September 20, 2022 issue of the *Louisiana Register* (LR 49:2430). Substantive changes were made to the September 20, 2022 NOI due to public comments and LDH published a Potpourri notice in the March 20, 2023 issue of the *Louisiana Register* (LR 49:617) noting the substantive changes to the NOI, and a public hearing was conducted concerning the substantive changes on April 27, 2023, as noted in the Potpourri.

Unless otherwise directed, the Department anticipates adopting the September 20, 2022 NOI as amended by the Potpourri published in the March 20, 2023 Potpourri, when it is published as a final rule in the June 20, 2023, issue of the *Louisiana Register*.

Please contact Paul Rhorer, Paul.Rhorer@la.gov, and Erin Downing, at Erin.Downing@la.gov, if you have any questions or require additional information about this matter.

Cc: Tara LeBlanc, Medicaid Director, LDH
Julie Foster Hagan, OCDD Assistant Secretary, LDH
Brian Bennett, Medicaid Program Manager, LDH
Veronica Dent, Medicaid Program Manager, LDH
Bethany Blackson, Legislative Liaison, LDH
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

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

Home and Community-Based Services Waivers
Supports Waiver
Direct Service Worker Wages and Bonus Payments
(LAC 50:XXI.6101)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.6101 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 Supports Waiver services to home and community-based services (HCBS) waiver participants under section 9817 of the American Rescue Plan.

The Department of Health, Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities promulgated an Emergency Rule which amended the provisions governing reimbursement in the Supports Waiver in order to establish workforce retention bonus payments for direct service workers and support coordination providers 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 XXI. Home and Community-Based Services
Waivers

Subpart 5. Supports Waiver

Chapter 61. Reimbursement
§6101. Unit of Reimbursement

A. - G. ...

H. Direct Service Worker Wages and Bonus Payments

1. Establishment of Direct Service Worker Wage Floor for Medicaid Home and Community-Based Services for Intellectual and Developmental Disabilities

a. Effective October 1, 2021, providers of Medicaid home and community-based waiver services operated through the Office for Citizens with Developmental Disabilities employing direct service workers will receive the equivalent of a \$2.50 per hour rate increase.

b. Effective October 1, 2021, this increase or its equivalent will be applied to all service units provided by direct service workers with an effective date of service for the identified home and community-based waiver services provided beginning October 1, 2021.

c. The minimum hourly wage floor paid to direct service workers shall be \$9 per hour.

d. All providers of services affected by this rate increase shall be subject to a direct service worker wage floor of \$9 per hour. This wage floor is effective for all affected direct service workers of any work status whether full-time or part-time.

e. The Department of Health (LDH) reserves the right to adjust the direct service worker wage floor as needed through appropriate rulemaking promulgation consistent with the Administrative Procedure Act.

2. Establishment of Direct Support Worker Workforce Retention Bonus Payments

a. Providers providing services on or after April 1, 2021 shall receive bonus payments of \$150 per month for each direct service worker that worked with participants for that month. These payments will remain in effect for each month thereafter that the direct service worker works with participants and is still employed with that agency.

b. The direct service worker providing services on or after April 1, 2021 that worked with participants must receive at least \$125 of this \$150 bonus payment paid to the provider. This bonus payment is effective for all affected direct service workers of any working status, whether full-time or part-time.

c. 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. 117-002) is exhausted.

d. LDH reserves the right to adjust the amount of the bonus payments paid to the direct service worker as needed through appropriate rulemaking promulgation consistent with the Administrative Procedure Act.

e. - e.ii. Repealed.

3. Audit Procedures for Direct Service Worker Wage Floor and Workforce Retention Bonus Payments

a. The wage enhancement and bonus payments reimbursed to providers shall be subject to audit by LDH.

i. - iv. Repealed.

b. Providers shall provide to LDH or its representative all requested documentation to verify that they are in compliance with the direct service worker wage floor and bonus payments.

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

d. Providers shall produce the requested documentation upon request and within the timeframe provided by LDH.

e. Non-compliance or failure to demonstrate that the wage enhancement and/or bonus payment were paid directly to direct service workers may result in the following:

- i. sanctions; or
- ii. disenrollment from the Medicaid program.

4. Sanctions for Direct Service Worker Wage Floor and Workforce Retention Bonus Payments

a. The provider will be subject to sanctions or penalties for failures to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such an action will depend upon the following factors:

- i. failure to pay I/DD HCBS direct service workers the floor minimum of \$9 per hour and/or the \$125 monthly bonus payments;
- ii. the number of employees identified as having been paid less than the floor minimum of \$9 per hour and/or the \$125 monthly bonus payments;
- iii. the persistent failure to pay the floor minimum of \$9 per hour and/or the \$125 monthly bonus payments; or
- iv. failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this Rule.

I. ...

1. Establishment of Support Coordination Workforce Retention Bonus Payments

a. Support coordination providers providing services on or after April 1, 2021 shall receive bonus payments of \$150 per month for each support coordination worker that worked with participants for that month. These payments will remain in effect for each month thereafter that the support coordination worker works with participants and is still employed with that agency.

b. The support coordination worker that worked with participants on or after April 1, 2021 must receive at least \$125 of this \$150 bonus payment paid to the provider. This bonus payment is effective for all affected support coordination workers of any working status, whether full-time or part-time.

c. 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.

d. LDH reserves the right to adjust the amount of the bonus payments paid to the support coordination workers as needed through appropriate rulemaking promulgation consistent with the Administrative Procedure Act.

2. Audit Procedures for Support Coordination Workforce Retention Bonus Payments

a. The bonus payments reimbursed to support coordination providers shall be subject to audit by LDH.

b. Support coordination providers shall provide to LDH or its representative all requested documentation to verify that they are in compliance with the support coordination bonus payments.

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

d. Support coordination providers shall produce the requested documentation upon request and within the timeframe provided by LDH.

e. Noncompliance or failure to demonstrate that the bonus payments were paid directly to support coordination workers may result in the following:

- i. sanctions; or
- ii. disenrollment from the Medicaid Program.

3. Sanctions for Support Coordination Workforce Retention Bonus Payments

a. The support coordination provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend upon the following factors:

- i. failure to pay support coordination workers the \$125 monthly bonus payments;
- ii. the number of employees identified as having been paid less than the \$125 monthly bonus payments;
- iii. the persistent failure to pay the \$125 monthly bonus payments; or
- iv. failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this Rule.

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 of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended LR 34:662 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:2281(October 2010), LR 37:2158 (July 2011), LR 39:1050 (April 2013), LR 40:82 (January 2014), LR 40:2587 (December 2014), 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 48:43 (January 2022), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:43(January 2022), LR 48:1579 (June 2022), 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

**RULE TITLE: Home and Community-Based Services
Waivers—Supports Waiver
Direct Service Worker Wages and Bonus Payments**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have state programmatic fiscal costs of approximately \$452,148 for FY 22-23 and \$184,909 for FY 23-24. It is anticipated that \$1,080 (\$540 SGF and \$540 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 \$1,006,134 for FY 22-23 and \$375,761 for FY 23-24. It is anticipated that \$540 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 OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule continues the provisions of the July 31, 2022 Emergency Rule, which established workforce retention bonus payments in the Supports Waiver (SW) for direct service workers and support coordination providers, along with audit procedures and sanctions. The use of bonus payments has been authorized by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) under Section 9817 of the American Rescue Plan Act of 2021. These increased payments will ensure that SW providers continue rendering services to waiver participants in the Medicaid Program. Implementation of this proposed rule is anticipated to increase expenditures for SW services by approximately \$1,457,752 for FY 22-23 and \$560,670 for FY 23-24.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2209#048

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

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

Public Hearing-Substantive Changes to Proposed Rule
Home and Community-Based Services Waivers
Supports Waiver
Direct Service Worker Wages and Bonus Payments
(LAC 50:XXI.6101)

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 published a Notice of Intent in the September 20, 2022 edition of the *Louisiana Register* (LR 48: 2430-2432) to amend LAC 50:XXI.6101 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Notice of Intent proposed to amend provisions governing reimbursement in the Supports Waiver in order to establish workforce bonus payments for direct service workers and support coordination providers along with audit procedures and sanctions. Upon further discussion with various stakeholders, the department published a Potpourri announcing substantive revisions to the provisions of the September 20, 2022 Notice of Intent (*Louisiana Register*, Volume 49, Number 1). The department subsequently decided not to proceed with the substantive revisions proposed in the January 20, 2023 Potpourri.

This Potpourri announces substantive changes to the provisions proposed in the September 20, 2022 Notice of Intent.

Taken together, all of these revisions to the September 20, 2022 Notice of Intent will closely align the proposed Rule

with the department's original intent and address the concerns brought forth during subsequent discussions with stakeholders relative to the Notice of Intent as originally published.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community-Based Services

Waivers

Subpart 5. Supports Waiver

Chapter 61. Reimbursement

§6101. Unit of Reimbursement

A. - H.1.e. ...

2. Establishment of Direct Service Worker Workforce Bonus Payments

a. Providers who provided services from April 1, 2021 to October 31, 2022 shall receive bonus payments of \$300 per month for each direct service worker that worked with participants for those months.

b. The direct service worker who provided services to participants from April 1, 2021 to October 31, 2022 must receive at least \$250 of this \$300 bonus payment paid to the provider. This bonus payment is effective for all eligible direct service workers of any working status, whether full-time or part-time.

c. Bonus payments will end October 31, 2022.

d. ...

e. - e.ii. Repealed.

3. Audit Procedures for Direct Service Worker Wage Floor and Workforce Bonus Payments

a. ...

i. - iv. Repealed.

b. - e.ii. ...

4. Sanctions for Direct Service Worker Wage Floor and Workforce Bonus Payments

a. The provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such an action will depend upon the following factors:

i. Direct Service Worker Wage Floor

(a). failure to pay I/DD HCBS direct service workers the wage floor minimum of \$9 per hour;

(b). the number of I/DD HCBS direct service workers identified as having been paid less than the wage floor minimum of \$9 per hour; or

(c). the persistent failure to pay I/DD HCBS direct service workers the wage floor minimum of \$9 per hour;

ii. Direct Service Worker Workforce Bonus Payments

(a). failure to pay eligible I/DD HCBS direct service workers the \$250 monthly workforce bonus payments;

(b). the number of eligible I/DD HCBS direct service workers identified as having not been paid the \$250 monthly workforce bonus payments; or

(c). the persistent failure to pay eligible I/DD HCBS direct service workers the \$250 monthly workforce bonus payments; or

iii. failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this Rule.

iv. Repealed.

I. ...

1. Establishment of Support Coordination Workforce Bonus Payments

a. Support coordination providers who provided services from April 1, 2021 to October 31, 2022 shall receive bonus payments of \$300 per month for each support coordination worker that worked with participants for those months.

b. The support coordination worker who provided services to participants from April 1, 2021 to October 31, 2022 must receive at least \$250 of this \$300 bonus payment paid to the provider. This bonus payment is effective for all eligible support coordination workers of any working status, whether full-time or part-time.

c. - d. Repealed.

2. Audit Procedures for Support Coordination Workforce Bonus Payments

a. - e.ii. ...

3. Sanctions for Support Coordination Workforce Bonus Payments

a. The support coordination provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend upon the following factors:

i. failure to pay support coordination workers the \$250 monthly workforce bonus payments;

ii. the number of employees identified as having been paid less than the \$250 monthly workforce bonus payments;

iii. the persistent failure to pay the \$250 monthly workforce bonus payments; or

I.3.a.iv. - 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 of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended LR 34:662 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:2281(October 2010), LR 37:2158 (July 2011), LR 39:1050 (April 2013), LR 40:82 (January 2014), LR 40:2587 (December 2014), 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 48:43 (January 2022), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:43(January 2022), LR 48:1579 (June 2022), LR 49:

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 these substantive changes to the proposed Rule.

Public Hearing

A public hearing on the substantive changes to the proposed Rule is scheduled for Thursday, April 27, 2023 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data,

views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m., May 1, 2023.

Dr. Courtney N. Phillips
Secretary

2303#062




State of Louisiana
Louisiana Department of Health
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
April 27, 2023
9:30 a.m.

RE: Public Hearing – Substantive Changes to Proposed Rule
Home and Community-Based Services Waivers
Supports Waiver
Direct Service Worker Wages and Bonus Payments
Docket #04272023-04
Department of Health
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on April 27, 2023 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.


Melissa A. Brea
Medicaid Policy and Compliance
Section

April 27, 2023
Date

LDH/BHSF PUBLIC HEARING

Topic – Public Hearing – Substantive Changes to Proposed Rule – Home and Community-Based Services
 Waivers – Supports Waiver – Direct Service Worker Wages and Bonus Payments

Date – April 27, 2023

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Theresa Bryan	628 N 4 th St		LDH BHSF
2. Allen Engler	Bienville Bldg.	225-342-1342	LDH
3. Tracy Joshua-Cox	Bienville Bldg	225 342 0943	OCDD
4. Denise Boyz	"	342-5447	OCDD
5. Erin Downing	"	342-8878	OCDD
6. Ed Harris	"	219-3326	OCDD

LDH/BHSF PUBLIC HEARING

Topic – Public Hearing – Substantive Changes to Proposed Rule – Home and Community-Based Services
 Waivers – Supports Waiver – Direct Service Worker Wages and Bonus Payments

Date – April 27, 2023

Name	Address	Telephone Number	AGENCY or GROUP you represent
7. Amanda Daigre	Bienville	733-3100	LDH - MPSW
8.			
9.			
10.			
11.			
12.			



State of Louisiana

Louisiana Department of Health
Office of the Secretary

May 10, 2023

Via Statutorily Prescribed Email

To: The Honorable Fred H. Mills, Jr., Chairman, Senate Health & Welfare Committee
The Honorable Larry Bagley, Chairman, House Health & Welfare Committee

From:  Dr. Courtney N. Phillips
Secretary

Re: Second Report to LAC 48:I.9305 – Hospital Licensing Standards

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the LAC 48:I.9305 – Hospital Licensing Standards.

A Notice of Intent on the proposed amendments was published in the March 20, 2023 issue of the *Louisiana Register* (LR 49:540). No written comments were received and there was no request for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:966B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the March 20, 2023, Notice of Intent when it is published as a final rule in the June 20, 2023, issue of the *Louisiana Register*.

Please contact Cynthia York, Cynthia.York@la.gov, if you have any questions or require additional information about this matter.

Cc: Tasheka Dukes, HSS Assistant Secretary, LDH
Tara LeBlanc, Medicaid Director, LDH
Veronica Dent, Medicaid Program Manager, LDH
Bethany Blackson, Legislative Liaison, LDH
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

NOTICE OF INTENT

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

**Hospital Licensing Standards
(LAC 48:1.9305)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:1.9305 as authorized by R.S. 36:254 and 40:2100-2115. 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 promulgated an Emergency Rule which amended the provisions governing the licensing of hospitals in order to update the process for granting waivers to building and construction guidelines or requirements and to update provisions governing the clinical operation of hospitals (*Louisiana Register*, Volume 49, Number 3). This proposed Rule is being promulgated to continue the provisions of the February 20, 2023 Emergency Rule.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 93. Hospitals

Subchapter A. General Provisions

§9305. Licensing Process

A. - M.2. ...

N. Plan Review. A letter to the Department of Health, Division of Engineering and Architectural Services, shall accompany the floor plans with a request for a review of the hospital plans. The letter shall include the types of services offered, number of licensed beds and licensed patient rooms, geographical location, and whether it is a relocation, renovation, and/or new construction. A copy of this letter is to be sent to the Hospital Program Manager.

1. - 2.b....

3. **Waivers**

a. The secretary of the department may, within his/her sole discretion, grant waivers to building and construction guidelines or requirements and to provisions of the licensing rules involving the clinical operation of the hospital. The facility shall submit a waiver request in writing to the licensing section of the department on forms prescribed by the department.

b. In the waiver request, the facility shall demonstrate the following:

i. how patient health, safety, and welfare will not be compromised if such waiver is granted;

ii. how the quality of care offered will not be compromised if such waiver is granted; and

iii. the ability of the facility to completely fulfill all other requirements of the service, condition, or regulation.

c. The licensing section of the department shall have each waiver request reviewed by an internal waiver review committee. In conducting such internal waiver review, the following shall apply:

i. the waiver review committee may consult subject matter experts as necessary, including the Office of State Fire Marshal; and

ii. the waiver review committee may require the facility to submit risk assessments or other documentation to the department.

d. The director of the licensing section of the department shall submit the waiver review committee's recommendation on each waiver to the secretary, or the secretary's designee, for final determination.

e. The department shall issue a written decision of the waiver request to the facility. The granting of any waiver may be for a specific length of time.

f. The written decision of the waiver request is final. There is no right to an appeal of the decision of the waiver request.

g. If any waiver is granted, it is not transferrable in an ownership change or change of location.

h. Waivers are subject to review and revocation upon any change of circumstance related to the waiver or upon a finding that the health, safety, or welfare of a patient may be compromised.

i. Any waivers granted by the department prior to January 15, 2023, shall remain in place, subject to any time limitations on such waivers; further, such waivers shall be subject to the following:

i. such waivers are subject to review or revocation upon any change in circumstance related to the waiver or upon a finding that the health, safety, or welfare of a patient may be compromised; and

ii. such waivers are not transferrable in an ownership change or change of location.

O. - P. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary. LR 13:246 (April 1987). amended by the Department of Health and Hospitals, Office of the Secretary. Bureau of Health Services Financing, LR

16:971 (November 1990), LR 21:177 (February 1995), LR 29:2401 (November 2003). amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1413 (June 2012). amended by the Department of Health. Bureau of Health Services Financing, LR 49:

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 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, 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 Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on May 1, 2023.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on April 10, 2023. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on April 27, 2023 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after April 10, 2023. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. 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
RULE TITLE: Hospital Licensing Standards**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 22-23. It is anticipated that \$756 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 not affect federal revenue collections as this measure has no impact on licensing fees.

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

This proposed rule continues the provisions of the February 20, 2023 Emergency Rule, which amended the provisions governing the licensing of hospitals in order to update the process for granting waivers to building and construction guidelines or requirements and grants a secondary option related to the clinical operation of hospitals. It is anticipated that implementation of this proposed rule will not result in costs to hospitals in FY 22-23, FY 23-24, and FY 24-25, but will be beneficial by ensuring that the requirements for granting waivers are accurately reflected in the Louisiana Administrative Code.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tasheka Dukes, RN
Deputy Assistant Secretary
2303#053

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office



State of Louisiana
Louisiana Department of Health
Office of the Secretary

May 10, 2023

Via Statutorily Prescribed Email

To: The Honorable Fred H. Mills, Jr., Chairman, Senate Health & Welfare Committee
The Honorable Larry Bagley, Chairman, House Health & Welfare Committee

From: Dr. Courtney N. Phillips
Secretary

Re: Second Report to LAC 48:I.Chapter 97 and 9911– Nursing Facilities – Licensing Standards

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the Nursing Facilities – Licensing Standards, LAC 48:I.Chapter 97 and 9911.

A Notice of Intent (NOI) on the proposed amendments was published in the December 20, 2022 issue of the *Louisiana Register* (LR 49:3034). Substantive changes were made to the December 20, 2022 NOI due to public comments and LDH published a Potpourri notice in the March 20, 2023 issue of the *Louisiana Register* (LR 49:619) noting the substantive changes to the NOI, and a public hearing was conducted concerning the substantive changes on April 27, 2023, as noted in the Potpourri.

Unless otherwise directed, the Department anticipates adopting the September 20, 2022 NOI as amended by the Potpourri published in the March 20, 2023 Potpourri, when it is published as a final rule in the June 20, 2023, issue of the *Louisiana Register*.

Please contact Cynthia York, Cynthia.York@la.gov, if you have any questions or require additional information about this matter.

Cc: Tara LeBlanc, Medicaid Director, LDH
Tasheka Dukes, HSS Assistant Secretary, LDH
Veronica Dent, Medicaid Program Manager, LDH
Bethany Blackson, Legislative Liaison, LDH
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

NOTICE OF INTENT

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

Nursing Facilities—Licensing Standards
(LAC 48:I.Chapter 97 and 9911)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapter 97 and §9911 as authorized by R.S. 36:254 and 40:2009.1-2009.44. 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 promulgated an Emergency Rule which amended the provisions governing the licensing of nursing facilities in order to comply with the requirements of the following Acts of the 2022 Regular Session of the Louisiana Legislature: Act 253 required the Department of Health to amend provisions governing the licensing of nursing facilities to provide requirements for generators or other department approved alternate electrical power sources; Act 461 required the department to promulgate provisions concerning healthcare workplace violence; and Act 522 directed the department to promulgate requirements and standards for nursing home emergency preparedness plans (*Louisiana Register*, Volume 48, Number 12). This proposed Rule is being promulgated to continue the provisions of the November 18, 2022 Emergency Rule.

Title 48

PUBLIC HEALTH-GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 97. Nursing Facilities

Subchapter A. General Provisions

§9701. Definitions

Local Office of Emergency Preparedness (OEP)—a parish office of homeland security and emergency preparedness established pursuant to R.S. 29:727.

Nursing Facility—Repealed.

Nursing Home and/or Nursing Facility—a nursing home or nursing facility as defined in R.S. 40:2009.2 that is licensed by the Department of Health (LDH) in accordance with the requirements of R.S. 40:2009.3.

Unlicensed Sheltering Site—any location within or outside the state of Louisiana that is not licensed as a nursing facility by the LDH in accordance with the R.S. 40:2009.3. This includes nursing homes licensed or certified by other states or federal entities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2009.1-2009.44.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1891 (November 2016), amended LR 46:1393 (October 2020), LR 49:

§9727. Incident Reporting Requirements

A. A nursing facility shall have written procedures for the reporting and documentation of actual and suspected incidents of abuse, neglect, misappropriation of property/funds, and suspicious death. Major injuries of unknown origin (e.g., fractures, burns, suspicious contusions, head injuries, etc.) for which the nursing facility is unable to determine the cause and could possibly be the result of abuse or neglect shall also be reported. Such procedures shall ensure that:

1. ...

2. all alleged violations involving abuse, neglect, exploitation, or mistreatment, including injuries of unknown origin and misappropriation of resident property, are reported immediately, but not later than two hours after the allegation is made or discovered, to the administrator of the facility and to other officials (including Health Standards Section (HSS) and law enforcement) where state law provides jurisdiction, if the events that caused the allegation involve abuse or result in a serious bodily injury; or not later than 24 hours after the events that caused an allegation which does not involve abuse or result in serious bodily injury, to the administrator of the facility and to other officials;

3. allegations of an event that do not involve abuse or result in serious bodily injury shall be reported to the administrator of the facility and HSS not later than 24 hours after the occurrence of or discovery of the incident. The nursing facility shall utilize the current department reporting database system to provide notification;

NOTE Repealed

4. - 5. ...

6. immediate attempts are made to notify other involved agencies and parties as appropriate;

7. immediate notification is made to the appropriate law enforcement authority whenever warranted; and

8. the nursing facility is required to maintain internet access and to keep the department informed of its active and monitored electronic mail address at all times.

B. - C. ...

D. A final report with the results of all investigations shall be reported to HSS within five working days of the incident through use of the current department reporting database system. The report shall include:

D.1. - F.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2009.1-2009.44.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1900 (November 2016), amended LR 49:

§9761. Policies and Procedures

A. There shall be written policies and procedures that:

1. are available to staff, residents and legal representatives governing all areas of care and services provided by the nursing facility;

2. ensure that each resident receives the necessary care and services to promote the highest level of physical,

medical, psychosocial functioning, and well-being of each resident;

3. are developed with the advice of a group of professional personnel consisting of at least a currently licensed physician, the administrator, and the director of nursing services;

4. are revised as necessary, but reviewed by the professional personnel group referenced in Paragraph A.3 of this Section at least annually;

5. are available to admitting physicians;

6. reflect an awareness of, and provisions for, meeting the total physical, medical, and psychosocial needs of residents, including admission, transfer and discharge planning, and the range of services available to residents, including frequency of physician visits by each type of similarly diagnosed resident admitted; and

7. are approved by the governing body.

B. The nursing facility shall develop and implement written policies and procedures that prohibit mistreatment, neglect, and abuse of residents and misappropriation of resident property.

1. The nursing facility's personnel, visitors, and residents shall not use verbal, mental, sexual or physical abuse, corporal punishment, or involuntary seclusion.

2. The nursing facility shall develop and implement policies and procedures for screening and training employees, for protection of the residents, and for the preventing, identifying, investigating, and reporting of abuse.

C. The nursing facility shall develop and implement policies and procedures to prevent, respond to, report, and mitigate instances of healthcare workplace violence.

D. The nursing facility is not required to admit registered sex offenders; however, if the nursing facility admits a registered sex offender, then the nursing facility shall develop policies and procedures to ensure that residents, their family members, and/or their responsible parties or guardians are notified upon admission of sex offenders living in the facilities. Such policies and procedures must include provisions for addressing the safety and well-being of other residents, staff, and visitors. The requirement of notification shall continue for as long as the information is considered a public record.

E. The administrator or his designee is responsible, in writing, for the execution of such policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2009.1-2009.44.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1903 (November 2016), amended LR 49:

§9767. Emergency Preparedness

A. General Provisions

1. The nursing facility shall have an emergency preparedness plan that conforms to the format and specifications and the licensing regulations promulgated herein (see the Louisiana Model Nursing Home Emergency Plan). The plan shall be designed to manage the consequences of all hazards, declared disasters, or other emergencies that either have the potential to disrupt and/or actually disrupt the nursing facility's ability to provide care and treatment, or threatens the health, safety, and welfare of the residents. The nursing facility shall follow and execute

its emergency preparedness plan in the event of a declared disaster or other emergency.

2. All nursing facilities shall submit their full, updated emergency preparedness plan to the department for approval on its current emergency preparedness webpage or electronic database. The emergency preparedness plan shall be signed by the nursing home's owner or owners, or any designee of such parties, and its administrator.

a. - d. Repealed.

3. The nursing facility's emergency preparedness plan shall include a shelter in place plan and an evacuation plan, both of which shall be activated at least once annually, either in response to an emergency or in a planned drill.

4. The nursing facility's emergency preparedness plan shall be individualized, site specific, current, and correct, and it shall comport with all requirements in Subsections C and D of this Section below.

5. The nursing facility's plan shall follow all applicable laws, standards, rules, or regulations, including R.S. 40:2009.25.

B. Emergency Preparedness Plan Approval Process

1. The review and approval of nursing home emergency preparedness plans by the department and each entity listed in Paragraph 3.a of this Subsection below shall be performed pursuant to each reviewing entities' respective areas of knowledge, expertise, or jurisdiction.

a. - d.iii. Repealed.

2. The departmental review and approval process required by this Subsection may include transmittal to any other local, parish, regional, or other state agencies or entities for consultation as the department deems appropriate. Each such agency or entity shall cooperate and contribute to the department's review and approval process, as required by state statute.

3. Departmental Review, Transmittal, and Approval of Emergency Preparedness Plan

a. The department shall conduct a review and, if appropriate, approval of each nursing home's emergency preparedness plan submitted to it via the current department emergency preparedness webpage or other electronic database. The departmental review and approval process required by this Subsection shall include transmittal of each nursing home's emergency preparedness plan to all of the following entities for review by those entities:

i. the Office of State Fire Marshal(OSFM);

ii. the Governor's Office of Homeland Security and Emergency Preparedness;

iii. the Department of Transportation and Development;

iv. the Louisiana Emergency Response Network;

v. the local office of emergency preparedness (OEP) of the parish in which the nursing home is located; and

vi. the local OEP of any parish in which an evacuation site, including any unlicensed sheltering site, as identified in the nursing home's emergency preparedness plan, is located.

b. After review of a nursing home emergency preparedness plan by the entities listed above, the department shall either issue final approval of the emergency preparedness plan or require changes, amendments, or other revisions to the emergency preparedness plan. The

department shall notify the nursing home that submitted the plan of the department's decision.

i. - vi. Repealed.

NOTE Repealed.

4. Emergency Preparedness Plan Review by Other Entities

a. Each entity listed in Paragraph 3.a above of this Subsection shall review each nursing home emergency preparedness plan submitted to it, and shall submit one of the following documents to the department within 90 days of receipt of the emergency preparedness plan from the department:

i. a letter of preliminary approval of the nursing home's emergency preparedness plan; or

ii. a letter detailing what changes, amendments, or revisions to the emergency preparedness plan are necessary.

b. any entity listed in Paragraph 3.a of this Subsection that does not respond to the department concerning a nursing home emergency preparedness plan within 90 days of receipt of the plan shall be deemed to have been granted preliminary approval to the plan.

5. Revision and Resubmission of Emergency Preparedness Plan

a. Within 15 days of receipt by the nursing home of an electronic notification from the department that the nursing home's emergency preparedness plan requires changes, amendments, or revisions, the nursing home shall update and revise its emergency preparedness plan to incorporate the required changes, amendments, or revisions, and shall return a copy of the updated and revised emergency preparedness plan to the department.

b. After receipt of the nursing home's updated and revised emergency preparedness plan within the 15 day time period, the department may, at its discretion, schedule a conference call with the nursing home to get clarification, information, or edits from the nursing home; such conference call may result in the nursing home submitting an additional updated or revised emergency preparedness plan.

c. The department shall review the nursing home's updated and revised emergency preparedness plan to confirm that all required changes, amendments, or revisions have been incorporated into the plan, and it shall approve the emergency preparedness plan and issue an approval letter to the nursing home. If the required changes, amendments, or revisions have not been incorporated, the department shall reject the emergency preparedness plan and issue a letter of rejection to the nursing home. The department shall not issue a license to or renew a license of a nursing home that has received a letter of rejection of its emergency preparedness plan.

6. Each nursing home shall transmit, if available, a copy of its final, approved emergency preparedness plan and a copy of the approval letter from the department to the OSFM and the applicable local office or OEP. If the nursing home received a letter of rejection from the department, the nursing home shall transmit a copy of that letter to the OSFM and the applicable local office or OEP.

7. Emergency Preparedness Plan Submission Deadlines for Nursing Facilities Located in Coastal Parishes

a. The following deadlines shall apply to each nursing home located in the parishes of Acadia, Ascension, Assumption, Calcasieu, Cameron, Iberia, Jefferson,

Jefferson Davis, Lafayette, Lafourche, Orleans, Plaquemines, Saint Bernard, Saint Charles, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, and Vermilion.

b. Each nursing home located in a parish listed in this Paragraph shall develop its emergency preparedness plan on or before August 30, 2022, pursuant to Act 522 of the 2022 Regular Session of the Louisiana Legislature.

c. Each nursing home located in a parish listed in this Paragraph shall submit copies of its emergency preparedness plan to the department on or before September 1, 2022, pursuant to Act 522 of the 2022 Regular Session of the Louisiana Legislature.

d. The department shall transmit its notification letter approving or rejecting the emergency preparedness plan to all nursing homes located in a parish listed in this Paragraph on or before March 1, 2023.

e. The department shall either approve or reject all resubmitted emergency preparedness plans and transmit to the nursing homes located in a parish listed in this Paragraph an approval or rejection letter on or before May 15, 2023.

f. Each nursing home located in a parish listed in this Paragraph shall transmit a copy of its final, approved emergency preparedness plan and the approval letter from the department, or alternatively it shall transmit the rejection letter it received from the department, to the OSFM and the applicable local office or OEP on or before May 31, 2023.

8. Emergency Preparedness Plan Submission Deadlines for Nursing Facilities Located in Non-Coastal Parishes

a. The following deadlines shall apply to each nursing home located in the parishes of Allen, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Baton Rouge, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Iberville, Jackson, LaSalle, Lincoln, Livingston, Madison, Morehouse, Natchitoches, Ouachita, Pointe Coupee, Rapides, Red River, Richland, Sabine, Saint Helena, Saint Landry, Tensas, Union, Vernon, Washington, Webster, West Baton Rouge, West Carroll, West Feliciana, and Winn.

b. Each nursing home located in a parish listed in this Paragraph shall develop its emergency preparedness plan on or before August 30, 2023.

c. Each nursing home located in a parish listed in this Paragraph shall submit copies of its emergency preparedness plan to the department on or before September 1, 2023.

d. The department shall transmit its notification letter approving or rejecting the emergency preparedness plan to all nursing homes located in a parish listed in this Paragraph on or before March 1, 2024.

e. The department shall either approve or reject all resubmitted emergency preparedness plans and transmit to nursing homes located in a parish listed in this Paragraph an approval or rejection letter on or before May 15, 2024.

f. Each nursing home located in a parish listed in this Paragraph shall transmit a copy of its final, approved emergency preparedness plan and the approval letter from the department, or alternatively it shall transmit the rejection letter it received from the department, to the OSFM and the applicable local office or OEP on or before May 31, 2024.

9. Annual Review of Emergency Preparedness Plan

a. On or before October 31, 2023, and annually thereafter each nursing home located in the parishes listed in Subsection B.7 above shall review its emergency preparedness plan.

b. On or before October 31, 2024, and annually thereafter, each nursing home located in the parishes listed in Subsection B.8 above shall review its emergency preparedness plan.

c. In conducting the annual review required by this Paragraph, a nursing home shall review any changes in the state licensing rules and regulations and any changes in federal rules and regulations for nursing homes that have been adopted since the date of its last review of its emergency preparedness plan.

d. If a nursing home conducts a review and determines that no changes, modifications, or amendments to its emergency preparedness plan are necessary, then the nursing home shall notify all of the following entities of this determination on or before November 1 of the current review period:

i. the local OEP of the parish in which the nursing home is located;

ii. the local OEP of any parish in which a sheltering site, alternative sheltering site, or evacuation site, as identified in the nursing home's emergency preparedness plan, is located;

iii. the OSFM; and

iv. the department.

e. Each notification required by Subparagraph 9.d above shall be in the form of a written attestation signed by the owner or owners, or any designee of such parties, and the administrator of the nursing home submitting the notification. A nursing home may submit an attestation provided for in this Subparagraph for no more than four consecutive years.

f. If the nursing home conducting the annual review determines that any changes, modifications, or amendments are necessary, or if the nursing home has previously submitted an attestation, as provided for in Subparagraph 9.e above, for four consecutive years, then the nursing home shall furnish a full emergency preparedness plan, prepared in accordance with the requirements and procedures provided in Subsections A through D of Section 9767, to the department on or before November 1 of the current review period.

i. Following review of the full emergency preparedness plan submitted in accordance with Subparagraph 9.f above, the department shall notify the nursing home of its decision to either approve the plan or to require changes, amendments, or revisions to the plan on or before March 1 of the current review period.

ii. In the event that the department requires changes, amendments, or revisions to the nursing home's emergency preparedness plan, the nursing home shall update and revise the plan to incorporate the required changes, amendments, or revisions, and it shall resubmit the plan to the department within 15 days of its receipt of the electronic notification from the department that changes, amendments, or revisions are required.

iii. After receipt of the nursing home's amended plan within the 15 day time period, the department may, at its discretion, schedule a conference call with the nursing

home to get clarification, information, or edits from the nursing home; such conference call may result in the nursing home submitting an additional updated or revised emergency preparedness plan.

iv. The department shall review the nursing home's updated and revised emergency preparedness plan to confirm that the required changes have been incorporated into the updated plan and it shall issue an approval or rejection letter to the nursing home on or before May 15 of the current review period.

(a). The department shall not issue a license to or renew a license of a nursing home that has received a letter of rejection of its emergency preparedness plan.

v. The nursing home shall transmit a copy of its final, approved emergency preparedness plan and a copy of the approval letter, or in the alternative, a copy of the rejection letter it received from the department, to the OSFM and the applicable local office or OEP on or before May 31 of the current review period.

(a). The nursing home shall submit the final, approved emergency preparedness plan to the above recipients in electronic format, if available.

C. Contents of Emergency Preparedness Plan

1. Each nursing home's written emergency preparedness plan shall identify, at a minimum, a primary evacuation site location and a secondary evacuation site location for emergencies or disasters. Such evacuation site locations may include the premises of other nursing homes, unlicensed sheltering sites, or both. Each such plan shall include and identify, at a minimum, all of the following:

a. the procedures and criteria used for determining when the nursing facility will evacuate, including a listing of specific evacuation determinations for those procedures and criteria;

b. the procedures and criteria used for determining when the nursing facility will shelter in place, including a listing of specific sheltering in place determinations for those procedures and criteria;

c. a primary evacuation site and a secondary evacuation site, as well as any other alternative evacuation sites that the nursing home may have;

i. these evacuation sites shall be evidenced by written agreements or contracts that have been signed and dated by all parties; and

ii. a nursing facility shall accept only the number of residents for which it is licensed unless prior written approval has been secured from the department or if the nursing facility is acting as an evacuation site during a declared or non-declared emergency;

d. the policies and procedures for mandatory evacuations, which shall provide that if the state, parish, or local office of emergency preparedness (OEP) orders a mandatory evacuation of the parish or area in which the nursing facility is located, the nursing facility shall evacuate unless the nursing facility receives a written exemption from the ordering authority prior to the mandated evacuation;

e. a plan for monitoring emergency alerts or notifications, including weather warnings and watches, as well as evacuation orders from local and state emergency preparedness officials;

i. this monitoring plan shall identify the staff position who will perform the monitoring, what equipment

will be used for monitoring, and who should be contacted if needed; and

ii. the nursing facility shall have plans for monitoring during normal daily operations and when sheltering in place or during evacuations;

f. the policies and procedures for the delivery of essential care and services to residents, whether the residents are housed in the nursing facility, at an off-site location, or when additional residents are housed in the nursing facility during an emergency;

g. the policies and procedures for inspection by the nursing facility, for any damage to its entire facility during and post-event;

h. the provisions for the management of staff, including sufficient and competent staffing, and the distribution and assignment of staff responsibilities and functions, either within the nursing facility or at another location;

i. an executable plan for coordinating transportation services that are sufficient to accommodate the resident census and staff. The vehicles required for evacuating residents to another location shall be equipped with temperature controls. The plan shall include the following information:

i. a system to identify residents who require specialized transportation and medical needs, including the number of residents who will be classified as:

i. red—high risk residents who will need to be transported by advanced life support ambulance due to dependency on mechanical or electrical life sustaining devices or very critical medical condition;

ii. yellow—residents who are not dependent on mechanical or electrical life sustaining devices, but cannot be transported using normal means (buses, vans, cars), and may need to be transported by a BLS ambulance. However, in the event of inaccessibility of medical transport, buses, vans, or cars may be used as a last resort; or

iii. green—residents who need no specialized transportation and may be transported by car, van, bus, or wheelchair accessible transportation;

j. a copy of the primary and secondary written transportation agreements for the evacuation of residents and staff that is signed and dated by all parties. Vehicles that are owned by, or are at the disposal of the nursing facility, shall have written usage agreements that are signed, dated and shall include verification of ownership, which shall include a copy of the vehicle's title or registration and the following information:

i. the number and type of vehicles;

ii. the capacity of each vehicle;

iii. a statement that each vehicle is equipped with temperature controls; and

iv. a statement that each vehicle is in good working condition;

k. policies and procedures outlining how the facility will prevent and treat heat-related medical illnesses due to the failure of temperature controls or due to other circumstances during transport;

l. the nursing facility's procedures for notifying the evacuation host site(s) local OEP, and the resident's family, legal representative or designated contact, and the department when the facility initiates its evacuation plan.

The nursing facility shall have a staff position designated who is responsible for generating and documenting all attempts of notifications to the local OEPs, resident's family or responsible representative, and the department.

m. policies and procedures to ensure that an identification is directly attached to the nursing facility resident. The nursing facility shall designate a staff position to be responsible for this procedure and documentation. This identification shall remain directly attached to the resident during all phases of an evacuation and shall include, but not be limited to, the following information:

i. current and active diagnosis;

ii. medications, including dosage and times administered;

iii. allergies;

iv. special dietary needs or restrictions;

v. advanced directive, if applicable; and

vi. next of kin or responsible party, including contact information and relationship to resident;

n. policies and procedures, as well as a designated staff position who is responsible for ensuring, documenting, and certifying that a sufficient supply of the following items accompanies residents on buses or other transportation during all phases of an evacuation:

i. water;

ii. food;

iii. nutritional supplies and supplements;

iv. medication(s); and

v. other necessary supplies;

o. staffing patterns for evacuation and the procedures for ensuring that all residents have access to licensed nursing staff and that appropriate nursing services are being provided during all phases of the evacuation, including transport of residents. For buses or vehicles transporting 15 or more residents, licensed nursing staff shall accompany the residents on the bus or vehicle. A licensed therapist who is BLS certified, or paramedic, may substitute for licensed nursing staff;

p. a plan for sheltering in place if the nursing facility determines that sheltering in place is appropriate, which shall include:

i. policies and procedures to ensure that seven days of necessary supplies are on hand for the duration of the shelter in place, or including any written agreements, with timelines, for how supplies will be delivered prior to the emergency event. The plan shall include a staff position responsible for ensuring and documenting that the necessary supplies are available. Supplies shall include, but are not limited to:

(a). drinking water or fluids, a minimum of one gallon per day, per person;

(b). water for sanitation, a minimum of three gallons per day, per person;

(c). non-perishable food, including special diets;

(d). medications;

(e). medical supplies;

(f). personal hygiene supplies; and

(g). sanitary supplies;

ii. policies and procedures for maintaining and posting a communications plan for contacting emergency services. The nursing facility shall designate a staff position

to be responsible for documenting and contacting emergency services. The communication plan shall include:

- (a). the type of equipment to be used;
- (b). back-up equipment to be used if available;
- (c). the equipment's testing schedule; and
- (d). the power supply for the equipment being used;

iii. policies and procedures addressing the supply of emergency electrical power, including but not limited to a generator, in instances when primary electrical power in the nursing home is lost, but evacuation from the nursing home is not required. The plan shall include the type(s), size(s) and location(s) of the generator(s), if applicable. Such plan shall also include a statement indicating whether the nursing facility has a generator for sheltering in place. If the nursing facility has such a generator, the plan shall provide for fuel, either on hand or delivered prior to the emergency event. Such nursing facilities shall have fuel delivery agreements in place that will extend the uninterrupted operation of the generator or alternative electrical power source under full load to a total period of 168 hours for a single emergent event. Nursing facilities may interrupt operation of the generator or alternative electrical power source to conduct routine maintenance as recommended by manufacturer's specifications. If the nursing facility has such a generator, the plan shall also provide a list of the generator's capabilities including:

- (a). its ability to provide cooling or heating for all or designated areas in the nursing facility;
- (b). its ability to power an Office of Public Health (OPH)-approved sewerage system;
- (c). its ability to power an OPH-approved water system;
- (d). its ability to power medical equipment;
- (e). its ability to power refrigeration;
- (f). its ability to power lights; and
- (g). its ability to power communications;

iv. an assessment of the nursing facility's building to include, but not be limited to:

- (a). wind load or ability to withstand wind;
- (b). flood zone and flood plain information;
- (c). possible causes and probability of power failure;

(d). age of building and type of construction; and
(e). determinations of, and locations of interior safe zones;

v. policies and procedures for preventing and treating heat related medical illnesses due to the failure of or the lack of air conditioning, or due to other circumstances, while sheltering in place;

vi. staffing patterns for sheltering in place and for evacuation;

q. the nursing facility's location, physical street address with longitude and latitude, and current nursing facility contact information;

r. a risk assessment to determine the nursing facility's physical integrity. The physical integrity of the nursing facility and all relevant and available information shall be used in determining whether sheltering in place is appropriate. All elevations shall be given in reference to sea level or adjacent grade, as appropriate. If the facility has an unlicensed sheltering site(s) as an evacuation location, it

shall also perform a risk assessment of each unlicensed sheltering site. The assessment(s) shall be reviewed annually and updated as necessary. The risk assessment shall include the nursing facility's determinations and the following information:

i. the nursing facility's latitude and longitude as well as the latitude and longitude for any unlicensed sheltering site;

ii. the flood zone determination for the nursing facility and any unlicensed sheltering site and base flood elevation for each, and the nursing facility shall evaluate how these factors will affect the building(s);

iii. the elevations of the building(s), heating ventilation and air conditioning (HVAC) system(s), generator(s), fuel storage, electrical service, water system and sewer motor. If applicable, the nursing facility shall evaluate how these factors will affect the viability of a site considering projected flood and surge water depths;

iv. an evaluation of the building to determine its ability to withstand wind and flood hazards to include:

- (a). the construction type and age;
- (b). the roof type and wind load;
- (c). the windows, shutters, and wind load;
- (d). the wind load of shelter building; and
- (e). the location of interior safe zones;

v. an evaluation of each generator's fuel source(s), including refueling plans, fuel consumption rate and a statement that the output of the generator(s) will meet the electrical load or demand of the required (or designated) emergency equipment;

vi. the determinations based upon an evaluation of surroundings, including lay-down hazards or objects that could fall on the building and hazardous materials, such as:

- (a). trees;
- (b). towers;
- (c). storage tanks;
- (d). other buildings;
- (e). pipe lines;
- (f). chemical and biological hazards; and
- (g). fuels;

vii. the sea, lake and overland surge from hurricanes (SLOSH) modeling using the maximum's of the maximum envelope of waters (MOM) for the nursing facility's specific location and the findings for all categories of hurricanes. The nursing facility's plan shall include an evaluation of how this will or will not affect the nursing facility;

s. the nursing facility's plan shall provide for an evaluation of security risks and corresponding security precautions that will be taken for protecting residents, staff and supplies during and after an emergency event;

t. the nursing facility's plan shall include clearly labeled and legible floor plan(s) of the nursing facility's building(s). The nursing facility's plan shall include the following:

- i. the areas being used as shelter or safe zones;
- ii. the supply and emergency supply storage areas;
- iii. the emergency power outlets;
- iv. the communications center;
- v. the location of the posted emergency floor plan, which shall be easily accessible to staff; and

vi. a pre-designated command post.

2. - 17.f. Repealed.

D. Unlicensed Sheltering Sites

1. Additional plan requirements for unlicensed sheltering sites shall include documentation of the following for review and approval:

a. a detailed floor plan of the sheltering site, which shall include the bed layout of the sleeping area, and copies of any contracts or documentation related to the unlicensed shelters;

b. required approvals from the OSFM and the OPH as a shelter site;

c. a covered area at the entrance of the building to afford protection from the weather;

d. adequate parking area for transportation needs;

e. adequate driveway(s) to allow for easy ingress and egress of transportation;

f. that building and equipment are maintained in good repair and free of hazards;

g. the accessibility for all occupants, including those in wheelchairs or on crutches in accordance with the Americans with Disabilities Act;

h. the installment of, or a contract to provide, an alternate power source onsite which shall be sufficient to power HVAC, lighting, refrigeration, and adequate power outlets with a minimum fuel supply for 72 hours;

i. contract(s) for fuel supply deliveries;

j. a designated area for isolation;

k. an operational HVAC that maintains a comfortable temperature;

l. adequate ventilation, i.e., facility well ventilated and free of air hazards (e.g., smoke, fumes, etc.);

m. adequate space per person in sleeping area, a minimum of 60 square feet per person;

n. a kitchen area that meets OPH requirements for meal preparation or a food service contract to provide at least three meals daily per person onsite;

o. contract(s) for waste removal, including but not limited to bio-hazard;

p. adequate onsite or contracted laundry services that shall have separate areas for soiled and clean laundry;

q. adequate onsite or contracted number of working hand-washing stations, minimum one per 15 persons;

r. adequate onsite or contracted number of permanently fixed and/or portable working toilets, minimum one per 20 persons;

s. adequate onsite or contracted number of permanently fixed and/or portable working showers/bathing facilities, minimum one per 15 persons.

2. For the requirements in D.1.q, r, and s in this Subsection, an environmental waiver for the unlicensed shelter site may be granted, at the discretion of the department, if the department determines that the waiver does not jeopardize the health, safety, and welfare of the evacuated facility's residents. The facility must submit a request in writing which must include the following:

i. which specific environmental requirement waiver is being requested and why;

ii. how the facility plans to mitigate their inability to meet the requirement; and

iii. an explanation as to why the environmental requirement waiver would not endanger the health, safety, and welfare of the evacuated facility's residents.

3. On an annual basis, the department, in conjunction with the OSFM and other entities, shall inspect and survey unlicensed sheltering sites identified in nursing home emergency preparedness plans. Any refusal by an unlicensed sheltering site to allow an inspection or survey of the site by the department may result in rejection of the unlicensed sheltering site, and the emergency preparedness plan as a whole. If such a refusal to allow an inspection or survey occurs when nursing home residents are being sheltered at the site, the facility shall cooperate with the department for orderly evacuation of residents and staff. The department may revoke the license of the nursing home that refuses to allow an inspection or survey.

4. If any unlicensed sheltering site is located outside of Louisiana, including nursing homes, the OSFM and the department shall coordinate with their state agency counterparts in the state in which the site is located for inspection, review, approval, and surveys of the site.

5. The local OEP of the parish in which an unlicensed sheltering site is located shall inspect the site prior to October 15, 2022, and annually thereafter. The office shall inspect any new unlicensed sheltering site identified after May 31, 2023, in a nursing home emergency preparedness plan within 30 days of receiving the plan and annually thereafter, as required by statute. The local OEP may inspect the unlicensed sheltering site at such other times as the director of the local OEP deems necessary or appropriate.

E. Emergency Preparedness Notifications and Reports

1. A nursing facility shall enter current nursing facility information into the current department emergency preparedness webpage or electronic database for reporting.

a. The following information shall be entered or updated into the current department emergency preparedness webpage or electronic database for reporting before the fifteenth day of each month:

i. operational status;

ii. current census and number of licensed beds;

iii. emergency contact and evacuation location(s);

iv. emergency evacuation transportation needs categorized by the following types:

(a). number of red—high risk residents who will need to be transported by advanced life support ambulance due to dependency on mechanical or electrical life sustaining devices or very critical medical condition;

(b). number of yellow—residents who are not dependent on mechanical or electrical life sustaining devices, but cannot be transported using normal means (buses, vans, cars), may need to be transported by a basic life support (BLS) ambulance. However, in the event of inaccessibility of medical transport, buses, vans, or cars may be used as a last resort; or

(c). number of green—residents who need no specialized transportation and can be transported by car, van, bus, or wheelchair accessible transportation.

b. A nursing facility shall also enter or update the nursing facility's information upon request, or as required following notification of an emergency declared by the

secretary. Emergency events include, but are not limited to hurricanes, floods, fires, chemical or biological hazards, power outages, tornados, tropical storms, freezing temperatures, and other severe weather.

c. Upon notification of a declared emergency, and as required by the department, nursing facilities shall file an electronic report on the current department emergency preparedness webpage or electronic database for reporting.

i. the electronic report shall be filed as required by the department, but at least daily, throughout the duration of the emergency declaration.

ii. the electronic report shall include, but not be limited to, the following:

- (a). status of operation;
- (b). availability of beds;
- (c). generator status;
- (d). evacuation status;
- (e). shelter in place status;
- (f). utility status; and
- (g). other information requested by the

department.

iii. the electronic report shall not be used to request resources.

F. Emergency Plan Activation

1. Shelter in Place

a. A shelter in place notification shall be sent within one hour of the facility's decision to shelter in place to the local OEP where the provider is located and to the department.

b. A shelter in place notification shall be sent to the resident's family, or responsible representative as far in advance as possible, but at least within 12 hours of the determination.

2. Evacuation and Temporary Relocation

a. The following applies to any nursing facility that evacuates, temporarily relocates or temporarily ceases operation at its licensed location due to an emergency:

i. the nursing facility shall immediately give written notice to HSS by hand delivery, facsimile or electronically of the following information:

(a). the date and approximate time of the evacuation;

(b). the sheltering evacuation site(s) to which the nursing facility is evacuating; and

(c). a list of residents being evacuated, which shall indicate the evacuation site for each resident;

ii. the evacuation sites' local OEP shall be provided the following within one hour of the decision to evacuate:

(a). the contact name and the telephone number that the evacuation sites' local OEP can call for information regarding the nursing facility's evacuation;

(b). the number of residents being evacuated to that location(s);

(c). the date and approximate time that the nursing facility is evacuating, and date and approximate time of arrival to the location(s);

(d). the site place or location to which the nursing facility is evacuating, including the:

- (i). name of the site(s);
- (ii). address(es); and
- (iii). telephone number(s).

iii. an evacuation notification shall also be sent to the resident's family, or responsible representative, and made as far in advance as possible, but at least within 12 hours of the determination to evacuate or after evacuation when communication is available. The notifications shall include:

(a). a telephone number that the family, or responsible representative, can call for information regarding the nursing facility's evacuation;

(b). name of the site(s); and

(c). address(es).

iv. the nursing facility shall notify the department within one hour of its decision regarding whether the nursing facility's residents will return to its licensed location from an unlicensed sheltering site, be placed in alternate licensed nursing facility beds, or request an extension to remain at the unlicensed sheltering site;

v. the nursing facility shall notify the current HSS emergency preparedness manager, or designee, as well as, the local OEP of the parish(es) in which nursing facility residents will be relocated to. Included in this notice, the nursing facility shall provide HSS with a list of all residents' names, dates of birth, and their locations within 48 hours of the decision to relocate from the unlicensed sheltering site.

vi. upon receipt of a nursing facility evacuation notification that includes unlicensed sheltering site(s), HSS and the OPH shall immediately conduct a site visit at the unlicensed sheltering site unless time, weather conditions, or other factors do not allow for such visit. The department may conduct onsite inspections of the unlicensed shelter site at any time deemed necessary or appropriate by the secretary of the department. If deemed to be necessary, HSS will conduct daily on-site visits while the unlicensed shelter site is occupied. The department's authority to conduct such visits will be in accordance with its authority to conduct onsite surveys of the nursing home, regardless of location.

3. In the event that a nursing facility evacuates, temporarily relocates or temporarily ceases operations at its licensed location due to an emergency event, the nursing facility shall be allowed to remain at an unlicensed sheltering site for a maximum of five days. A nursing facility may request one 15 day extension, not to exceed a total of 20 days to remain at the unlicensed sheltering site.

a. By noon on the fifth day of evacuation, the nursing facility shall submit a written request for extension to HSS if it desires to remain at the unlicensed sheltering site. The request shall include the reasons that the facility is unable to return to their facility and why their residents cannot be placed in an alternate nursing facility(ies). The request shall also include a written plan with timeline to either return residents to the licensed location or be placed in an alternate nursing facility(ies) within the extension period requested, if such is granted.

b. The extension shall only be granted for good cause shown and for circumstances beyond the control of the nursing facility. If extension is not granted, the facility must cooperate with the department for an orderly evacuation of residents and staff to the alternate location.

c. This extension shall be granted only if essential care and services to residents are ensured to continue at the current sheltering facility.

d. Upon expiration of the five days or upon expiration of the written extension granted to the nursing

facility, all residents shall be relocated to a nursing facility and HSS, and the local OEP shall be informed of the residents' new location(s).

G. Reopening of Nursing Facility and Repatriation of Residents

1. The evacuated nursing facility shall conduct and document an inspection of their entire facility for damages prior to submitting a written request to HSS to reopen at the licensed location. That request shall include:

- a. damage report;
- b. extent and duration of any power outages;
- c. re-entry census;
- d. staffing availability; and
- e. information regarding access to the community service infrastructure, such as hospitals, transportation, physicians, professional services, and necessary supplies, such as food, water, medical supplies, and medications.

2. Upon receipt of a reopening request, the department shall review and determine if reopening will be appropriate. The department may request additional information from the nursing facility as necessary to make determinations regarding reopening.

3. After review of all documentation, the department shall issue a notice of one of the following determinations:

- a. approval of reopening without survey;
- b. surveys required before approval to reopen will be granted. This may include surveys by the OPH, OSFM, and HSS; or
- c. denial of reopening.

H. After Action Written Summary

1. Upon request by the department, the nursing facility shall submit a written summary attesting how the nursing facility's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

- a. pertinent plan provisions and how the plan was followed and executed;
 - i. - iii. Repealed.
- b. plan provisions that were not followed;
- c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;
- d. contingency arrangements made for those plan provisions not followed; and
 - i. - vi. Repealed.
- e. a list of all injuries and deaths of residents that occurred during execution of the plan, evacuation and temporary relocation including the date, time, causes, and circumstances of the injuries and deaths.

2. - 5.e. Repealed.

I. Inactivation of License Due to Declared Disaster or Emergency

1. A nursing facility in an area or areas that has been affected by a declared disaster or emergency and included in an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766 may seek to inactivate its license for a period not to exceed two years, provided that the following conditions are met:

a. the nursing facility shall submit written notification to HSS within 60 days of the date of the executive order or proclamation of emergency or disaster that:

i. the nursing facility has experienced an interruption in the delivery of services at its licensed facility as a result of events that are the subject of such executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;

ii. the nursing facility intends to resume operation as a nursing facility in the same service area;

iii. includes an attestation that the emergency or disaster is the sole causal factor in the interruption of the provision of services; and

iv. pursuant to these provisions, an extension of the 60-day deadline may be granted at the discretion of the department;

b. the nursing facility resumes operating as a nursing facility in the same service area within two years of issuance of an executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766, unless an extension has been granted;

i. a nursing facility may request one extension, not to exceed an additional one year for good cause shown by the facility. This request for an extension may be granted at the sole discretion of the department;

c. the nursing facility continues to pay all fees and costs due and owed to the department including, but not limited to , annual licensing fees and outstanding civil monetary penalties and/or civil fines; and

d. the nursing facility continues to submit required documentation and information to the department, including but not limited to cost reports.

e. Repealed.

2. Upon receiving a completed written request to inactivate a nursing facility license, if the department determines that all of the requirements have been met, the department shall issue a notice of inactivation of license to the nursing facility.

3. Upon completion of repairs, renovations, rebuilding or replacement of the facility, a nursing facility, which has received a notice of inactivation of its license from the department, shall be allowed to reinstate its license upon the following conditions being met:

a. the nursing facility shall submit a written license reinstatement request to HSS within two years of the executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766, unless an extension has been granted;

b. the license reinstatement request shall inform the department of the anticipated date of opening and shall request the scheduling of a licensing survey; and

c. the license reinstatement request shall include a completed licensing application with appropriate licensing fees.

4. Upon receiving a completed written request to reinstate a nursing facility license, the department shall conduct a licensing survey. If the nursing facility meets the requirements for licensure and the requirements provided for in Paragraph I.3 above, the department shall issue a notice of reinstatement of the nursing facility license. The licensed bed capacity of the reinstated license shall not exceed the licensed bed capacity of the nursing facility at the time of the request to inactivate the license.

5. No change of ownership in the nursing facility shall occur until such nursing facility has completed repairs, renovations, rebuilding, or replacement construction and has resumed operations as a nursing facility.

6. The provisions of this Subsection shall not apply to a nursing facility that has voluntarily surrendered its license and ceased operation.

7. Failure to comply with any of the provisions of this Subsection shall be deemed a voluntary surrender of the nursing facility license.

J. Inactivation of License Due to Non-Declared Emergency or Disaster

1. A nursing facility in an area or areas that have been affected by a non-declared emergency or disaster may seek to inactivate its license, provided that the following conditions are met:

a. the nursing facility shall submit written notification to the HSS within 30 days of the date of the non-declared emergency or disaster stating that:

i. the nursing facility has experienced an interruption in the provisions of services as a result of events that are due to a non-declared emergency or disaster;

ii. the nursing facility intends to resume operation as a nursing facility in the same service area;

iii. the nursing facility attests that the emergency or disaster is the sole causal factor in the interruption of the provision of services;

iv. the nursing facility's initial request to inactivate does not exceed two years from the date of the non-declared emergency or disaster for the completion of repairs, renovations, rebuilding, or replacement of the facility; and

v. pursuant to these provisions, an extension of the 30 day deadline for initiation of request may be granted at the discretion of the department.

b. the nursing facility continues to pay all fees and costs due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties and/or civil fines;

c. the nursing facility continues to submit required documentation and information to the department, including but not limited to cost reports, and;

d. if major alterations are to be completed in areas where beds have been placed in alternate use, those beds shall be removed from alternate use and relicensed and re-enrolled as nursing facility beds at the time of request.

2. Upon receiving a completed written request to temporarily inactivate a nursing facility license, the department shall issue a notice of inactivation of license to the nursing facility.

3. Upon the facility's receipt of the department's approval of request to inactivate the facility's license, the facility shall have 90 days to submit plans for the repairs, renovations, rebuilding, or replacement of the facility to the OSFM and the OPH, as required.

4. The nursing facility shall resume operating as a nursing facility in the same service area within two years from the non-declared emergency or disaster, unless an extension has been granted.

5. A nursing facility may request one extension, not to exceed an additional six months for good cause shown by

the facility. This request for an extension may be granted at the sole discretion of the department.

6. Upon completion of repairs, renovations, rebuilding, or replacement of the facility, a nursing facility that has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

a. the nursing facility shall submit a written license reinstatement request to HSS;

b. the license reinstatement request shall inform the department of the anticipated date of opening and shall request scheduling of a licensing survey; and

c. the license reinstatement request shall include a completed licensing application with appropriate licensing fees.

7. Upon receiving a completed written request to reinstate a nursing facility license, the department may conduct a licensing survey. The department may issue a notice of reinstatement if the facility has met the requirements for licensure including the requirements of this Subsection. The licensed bed capacity of the reinstated license shall not exceed the licensed bed capacity of the nursing facility at the time of the request to temporarily inactivate the license.

8. No change of ownership in the nursing facility shall occur until such nursing facility has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as a nursing facility.

9. The provisions of this Subsection shall not apply to a nursing facility that has voluntarily surrendered its license and ceased operation.

10. Failure to comply with any of the provisions of this Subsection shall be deemed a voluntary surrender of the nursing facility license.

K. Temporary Inactivation of Licensed Nursing Facility Beds Due to Major Alterations

1. A nursing facility, which is undergoing major alterations to its physical plant, may request a temporary inactivation of a certain number of licensed beds provided that:

a. the nursing facility submits a written request to HSS seeking temporary inactivation of a certain number of its licensed bed capacity. Such written request shall include the following:

i. that the nursing facility has experienced or will experience a temporary interruption in the provision of services to its licensed bed capacity as a result of major alterations;

ii. an attestation that the renovations are the sole causal factor in the request for temporary inactivation of a certain number of its licensed beds;

iii. the anticipated start date of the temporary inactivation of a certain number of licensed beds;

NOTE: Repealed.

iv. the anticipated end date of the temporary inactivation of a certain number of licensed beds; and

v. the number of licensed beds requested to be inactivated temporarily;

b. the nursing facility ensures the health, safety, and welfare of each resident during the major alterations;

i. Repealed.

c. the nursing facility continues to provide, and each resident continues to receive, the necessary care and services to attain or maintain the resident's highest practicable physical, medical and psychosocial well-being, in accordance with each resident's comprehensive assessment and plan of care; and

d. if major alterations are to be completed in areas where beds have been placed in alternate use, those beds shall be removed from alternate use and relicensed and re-enrolled as nursing facility beds at the time of request.

2. Upon receiving a completed written request for temporary inactivation of a certain number of the licensed bed capacity of a nursing facility, if appropriate the department shall issue a notice of temporary inactivation of a certain number of the nursing facility's licensed beds.

3. No change of ownership in the nursing facility shall occur until such nursing facility has completed the major alterations and has resumed operating at prior approved licensed bed capacity.

a. - c. Repealed.

4. Upon completion of the major alterations and receiving a completed written request to reinstate the number of licensed beds of a nursing facility, the department may conduct a licensing survey. If the nursing facility meets the requirements for licensure and the requirements under this Subsection, the department may issue a notice of reinstatement of the nursing facility licensed bed capacity.

5. The licensed bed capacity after major alterations are completed shall not exceed the licensed bed capacity of the nursing facility at the time of the request to temporarily inactivate a certain number of its licensed bed capacity prior to renovations.

6. The provisions of this Subsection shall not apply to a nursing facility that has voluntarily surrendered its license and ceased operation.

K.7. - M.5. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2009.1-2009.44.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1905 (November 2016), amended LR 48:1290 (May 2022), LR 49:

Chapter 99. Nursing Facilities

Subchapter B. Physical Environment

§9911. General Provisions

A. - D. ...

E. No later than June 30, 2023, nursing facilities shall have a generator or other department approved alternate electrical power source in the event of the loss of primary electrical power. The department may grant a one-time extension, not to exceed six months, upon written application by a nursing facility that compliance has been delayed due to extraordinary and unforeseen circumstances. No extension shall be granted if the nursing facility fails to provide sufficient evidence of substantial compliance or good faith efforts to comply with the requirement deadline.

1. The generator or alternate electrical power source shall have a simultaneous capability of providing sufficient electrical power for all of the following:

- a. life safety systems;
- b. lighting in patient care areas;
- c. medical equipment in patient care areas;
- d. electrical components of the approved potable water system;

e. electrical components of the approved sewer systems;

f. operation of the nursing facility's medication dispensing and medication refrigeration systems;

g. operation of the nursing facility's dietary services and related refrigeration; and

h. operation of the nursing facility's laundry services.

2. For nursing facilities built or whose construction plans have been approved by the department:

a. prior to August 1, 2022, HVAC systems or portions of systems are required to maintain a safe indoor temperature and to be powered at a minimum 50 percent of the air conditioning systems and 50 percent of the heating systems in the facility.

b. on or after August 1, 2022, HVAC systems or portions of systems are required to maintain a safe indoor temperature and to be powered at a minimum 90 percent of the air conditioning systems and 90 percent of the heating systems in the facility.

3. The generator or alternate electrical power source shall be permanently installed onsite at the nursing facility and shall have fuel stored onsite at the nursing facility or delivered prior to an emergency event, in the following quantities:

a. for nursing facilities built or whose construction plans have been approved by the department prior to August 1, 2022, in an amount sufficient to operate the generator or alternative electrical power source under full load for 48 hours.

b. for nursing facilities approved for construction and built on or after August 1, 2022, in an amount sufficient to operate the generator or alternative electrical power source under full load for 72 hours.

4. Natural gas is an allowable fuel source and meets the onsite fuel requirement as long as there is an onsite propane tank sufficient in size to meet the fuel requirements, in the event a natural gas disruption occurs.

5. For nursing facilities built or whose construction plans have been approved by the department prior to August 1, 2022, the department may provide a waiver for the permanently installed generator or alternative electrical power source required by this Subsection if it is determined by the department that there is not sufficient physical space available or a governmental ordinance exists that makes it impossible to place a generator or alternative electrical power source and the fuel required by this Subsection on the premises of the nursing facility. Each nursing facility that receives a waiver pursuant to this Paragraph shall annually submit to the department for review and approval a plan to provide for the health and safety of the facility's residents in the event of power loss. The annual plan may incorporate, but is not limited to mobile generators, chillers, or evacuation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2009.1-2009.44.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1926 (November 2016), amended LR 49:

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 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 Emergency Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service.

Public Comments

Interested persons may submit written comments to Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on January 30, 2023.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on January 9, 2023. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on January 26, 2023 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after January 9, 2023. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. 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 RULE TITLE: Nursing Facilities Licensing Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will increase state general fund costs by approximately \$404,182 for FY 22-23, \$520,220 for FY 23-24, and \$520,220 for FY 24-25. Funding and staff to implement this proposed rule will be transferred from the Medical Vendor Administration and the Office of Public Health to the Health Standards Section. It is anticipated that \$6,588 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 not affect federal revenue collections since the licensing fees, in the same amounts, will continue to be collected.

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

This proposed rule continues the provisions of the November 18, 2022 Emergency Rule, which amended the provisions governing the licensing of nursing facilities in order to: provide requirements for generators or other department approved alternate electrical power sources; adopt provisions concerning healthcare workplace violence; and adopt requirements and standards for nursing home emergency preparedness plans, in compliance with Acts 253, 461, and 522 of the 2022 Regular Session of the Louisiana Legislature. This proposed rule will be beneficial to staff and residents as it implements requirements to prevent workplace violence and procedures for ensuring safety during emergencies and disasters. This proposed rule may result in indeterminable costs to nursing facility providers for equipment and maintenance. Implementation of this proposed rule is anticipated to result in costs to the Department of Health of \$397,594 for FY 22-23, \$520,220 for FY 23-24, and \$520,220 for FY 24-25 for staffing; however, funding for the positions will be transferred from the Medical Vendor Administration and the Office of Public Health to the Health Standards Section.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tasheka Dukes, RN
Deputy Assistant Secretary
2212#051

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

POTPOURRI
Department of Health
Bureau of Health Services Financing

Public Hearing—Substantive Changes to Proposed Rule
Nursing Facilities—Licensing Standards
(LAC 48:I.Chapter 97 and 9911)

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 published a Notice of Intent in the December 20, 2022 edition of the *Louisiana Register* (LR 48:3034-3045) to amend LAC 48:I.Chapter 97 and §9911 as authorized by R.S. 36:254 and 40:2009.1-2009.44. This Notice of Intent proposed to continue the provisions of the November 18, 2022 Emergency Rule which amended the provisions governing the licensing of nursing facilities in order to comply with the requirements of the following Acts of the 2022 Regular Session of the Louisiana Legislature: Act 253 required the Department of Health to amend provisions governing the licensing of nursing facilities to provide requirements for generators or other department approved alternate electrical power sources; Act 461 required the department to promulgate provisions concerning healthcare workplace violence; and Act 522 directed the department to promulgate requirements and standards for nursing home emergency preparedness plans (*Louisiana Register*, Volume 48, Number 12).

The department has determined that additional, non-technical revisions are necessary to the provisions of §9701 and §9767 of the December 20, 2022 Notice of Intent. Taken together, these revisions will closely align the proposed Rule with the department's original intent.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 97. Nursing Facilities
Subchapter A. General Provisions
§9701. Definitions

* * *

Unlicensed Sheltering Site—any location within or outside the state of Louisiana that is not licensed as a nursing facility by the LDH in accordance with the R.S. 40:2009.3, or licensed as a nursing facility by another state, when such location is used for evacuation purposes.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2009.1-2009.44.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1891 (November 2016), amended LR 46:1393 (October 2020), LR 49:

§9767. Emergency Preparedness

- A. - A.2. ...
 - a. - d. Repealed.
- A.3. - B.1. ...
 - a. - d.iii. Repealed.
- 2. - 3.b....
 - i. - vi. Repealed.

NOTE Repealed

- B.4. - C.1.t.vi. ...

- 2. - 17.f. Repealed.

D. Unlicensed Sheltering Sites

- 1. - 3. ...

4. If any unlicensed sheltering site is located outside of Louisiana, including nursing homes, the department shall coordinate with their state agency counterparts in the state in which the site is located for inspection, review, approval, and surveys of the site.

- D.5. - K.6. ...

- K.7. - M.5. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2009.1-2009.44.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1905 (November 2016), amended LR 48:1290 (May 2022), LR 49:

Public Comments

Interested persons may submit written comments to Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding these substantive changes to the proposed Rule.

Public Hearing

A public hearing on the substantive changes to the proposed Rule is scheduled for Thursday, April 27, 2023 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m., March 1, 2023.

Dr. Courtney N. Phillips
Secretary

2303#063

John Bel Edwards
GOVERNOR



Dr. Courtney N. Phillips
SECRETARY


State of Louisiana
Louisiana Department of Health
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
April 27, 2023
9:30 a.m.

RE: Public Hearing – Substantive Changes to Proposed Rule
Nursing Facilities
Licensing Standards
Docket #04272023-05
Department of Health
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on April 27, 2023 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.


Melissa A. Bryan
Medicaid Policy and Compliance
Section

April 27, 2023
Date

LDH/BHSF PUBLIC HEARING

Topic - Public Hearing – Substantive Changes to Proposed Rule
Nursing Facilities
Licensing Standards
Date - April 27, 2023

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. <i>Venera Holiday</i>	<i>628 N 4th Street</i>	<i>225-342-2390</i>	<i>LDH HSS</i>
2. <i>Allen Enger</i>	<i>Biesville Bly</i>	<i>225-342-1342</i>	<i>LDH</i>
3. <i>Claire Popovich</i>	<i>"</i>	<i>(225) 342-9977</i>	<i>LDH</i>
4. <i>Cynthia York</i>	<i>"</i>	<i>225-936-9915</i>	<i>HSS</i>
5.			
6.			



State of Louisiana
Louisiana Department of Health
Office of the Secretary

May 10, 2023

Via Statutorily Prescribed Email

To: The Honorable Fred H. Mills, Jr., Chairman, Senate Health & Welfare Committee
The Honorable Larry Bagley, Chairman, House Health & Welfare Committee

From: Dr. Courtney N. Phillips *Deery for*
Secretary

Re: Second Report to LAC 50:IX.Chapter 11 and 15106 – Professional Services Program – Tobacco Cessation Counseling

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the Professional Services Program – Tobacco Cessation Counseling, 50:IX.Chapter 11 and 15106.

A Notice of Intent on the proposed amendments was published in the March 20, 2023 issue of the *Louisiana Register* (LR 49:542). Written comments were received; however, no requests for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. After thoroughly reviewing and giving due consideration to the comments received, no substantive changes were made to the proposed amendments since the report provided for in R.S. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the March 20, 2023, Notice of Intent when it is published as a final rule in the June 20, 2023, issue of the *Louisiana Register*.

Please contact Amanda Dumas, MD, Amanda.Dumas@la.gov, and Shantel Hebert-Magee, Shantel.Hebert-Magee@la.gov, if you have any questions or require additional information about this matter.

Cc: Tara LeBlanc, Medicaid Director, LDH
Tangela Womack, Medicaid Deputy Director, LDH
Daniel Cocran, Medicaid Deputy Director, LDH
Kimberly Sullivan, Deputy General Counsel, LDH
Veronica Dent, Medicaid Program Manager, LDH
Bethany Blackson, Legislative Liaison, LDH
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

to adopt provisions in the Professional Services Program in order to expand coverage for tobacco cessation counseling services to all Medicaid beneficiaries.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart I. General Provisions

Chapter 11. Tobacco Cessation Counseling Services

§1101. General Provisions

A. Effective for dates of service on or after June 20, 2023, the Medicaid Program provides coverage for tobacco cessation counseling services to beneficiaries who use tobacco products or who are being treated for tobacco use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:

§1103. Scope of Services

A. Tobacco cessation counseling services shall be reimbursed by the Medicaid Program when rendered by the beneficiary's primary care provider (PCP) or other appropriate healthcare professionals. Beneficiaries may receive up to four tobacco cessation counseling sessions per quit attempt, up to two quit attempts per calendar year, for a maximum of eight counseling sessions per calendar year. These limits may be exceeded, if deemed medically necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:

§1105. Provider Participation

A. The entity seeking reimbursement for tobacco cessation counseling services must be an enrolled Medicaid provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter A. General Provisions

§15106. Tobacco Cessation Counseling Services

A. Effective for dates of service on or after June 20, 2023, the Medicaid Program shall provide reimbursement for tobacco cessation counseling services rendered by qualified health care professionals.

B. Reimbursement for tobacco cessation counseling services shall be a flat fee based on the appropriate HCPCS code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:

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

NOTICE OF INTENT

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

Professional Services Program
Tobacco Cessation Counseling
(LAC 50:IX.Chapter 11 and 15106)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:IX.Chapter 11 and §15106 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 currently provides coverage for tobacco cessation counseling services rendered to pregnant beneficiaries in the Medical Assistance Program. The department now proposes

functioning, stability and autonomy as described in R.S. 49:972, as it will increase access by Medicaid beneficiaries to tobacco cessation treatment services.

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 a 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 increase access to tobacco cessation treatment that may lead to decreased tobacco utilization and thus decreased spending on tobacco products by family members.

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 since it provides reimbursement for services that were not previously covered.

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 Rule has been considered. It is anticipated that this 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 provides reimbursement for services that were not previously covered.

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 May 1, 2023.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on April 10, 2023. If the criteria set forth in R.S. 49:961(B)(1) are satisfied are satisfied, LDH will conduct a public hearing at 9:30 a.m. on April 27, 2023 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after April 10, 2023. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. 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 RULE TITLE: Professional Services Program Tobacco Cessation Counseling

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will increase state costs of approximately \$42,869 for FY 22-23, \$220,275 for FY 23-24, and \$272,405 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 implementation of this proposed rule will increase revenue collections of statutory dedicated revenue from the Medical Assistance Trust Fund by approximately \$41,723 for FY 23-24 and \$73,433 for FY 24-25. In addition, this proposed rule will increase federal revenue collections by approximately \$202,942 for FY 22-23, \$1,155,046 for FY 23-24, and \$1,524,660 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 NONGOVERNMENTAL GROUPS (Summary)

This proposed rule adopts provisions in the Professional Services Program in order to expand coverage for tobacco cessation counseling services to all Medicaid beneficiaries. Currently, coverage for these services is limited to pregnant women. This proposed rule will ensure that all Medicaid beneficiaries have access to tobacco cessation counseling which may lead to decreased tobacco utilization and spending on tobacco products. Implementation of this proposed rule is anticipated to increase payments to providers by approximately \$245,163 for FY 22-23, \$1,417,044 for FY 23-24, and \$1,870,498 for FY 24-25, since tobacco cessation counseling will now be covered for all beneficiaries.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2303#054

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

SUMMARY OF WRITTEN COMMENTS

Proposed Rule: Professional Services Program — Tobacco Cessation Counseling

Public Hearing Date: N/A

Docket No. : N/A

Conducted By: N/A

Written Comments Received From	Mode of Receipt	Summary of Comments
<p>Jim Meadows, Executive Director, New Orleans Advocates for LGBTQ+Elders (NOAGE)</p>	<p>Via email to Medicaid Executive Director</p>	<ul style="list-style-type: none"> • NOAGE supports the actions and encourages that all three forms of counseling - individual, group, and phone will be covered for all Medicaid recipients. • Urges the removal of existing barriers to accessing tobacco cessation services. • The proposed regulation would expand coverage but does not specify that all three forms of counseling will be covered. • The state imposes barriers which can limit access to tobacco cessation treatments. • NOAGE encourages Louisiana to modify the proposed policy to make them compliant with the United States Department of Treasury, Labor and Health and Human Services FAQ and to provide enrollees the best opportunity to quit successfully. • NOAGE urges Louisiana to ensure that prior authorization, stepped care therapy, and counseling requirements are not imposed in order to access treatments. • Remove annual and duration limits to treatment that discourage recipients from accessing treatments.
<p>Alice Kline, Government Relations Director, Louisiana The American Cancer Society Cancer Action Network (ACS CAN)</p>	<p>Via email to Medicaid Executive Director</p>	<ul style="list-style-type: none"> • ACS CAN supports the increased access to tobacco cessation counseling and encourages that all three forms of counseling – individual, group, and phone is covered for all Medicaid recipients. • Urges the removal of existing barriers to accessing tobacco cessation services. • ACS CAN recommends that Medicaid programs cover a comprehensive tobacco cessation benefit that includes access to all three types of counseling and all seven U.S. Food and Drug Administration (FDA)-approved medications, without enrollee cost-sharing or other barriers. • Encourages modification of the proposed policy to make it compliant with the United States Department of Treasury, Labor and Health and Human Services FAQ that would provide the best opportunity to quit successfully. • ACS CAN urges Louisiana to not impose prior authorization, stepped care therapy, and counseling requirements to access treatment. • Remove annual and duration limits to treatment that discourage recipients from accessing treatments.

Written Comments Received From	Mode of Receipt	Summary of Comments
Evan M. Alvarez The American Heart Association	Via U.S. Mail	<ul style="list-style-type: none"> • AHA applauds the department for existing tobacco cessation benefits and coverage expansion and asks the following as the policy change is finalized: <ul style="list-style-type: none"> ○ Expand coverage for individual and group counseling ○ Remove barriers to accessing covered treatments, such as copayments and prior authorization requirements ○ Allow reimbursement of behavioral interventions via diverse modalities such as telephone counseling and telehealth interventions



State of Louisiana

Louisiana Department of Health
Bureau of Health Services Financing

May 2, 2023

Jim Meadows
New Orleans Advocates for LGBTQ+ Elders
1631 Elysian Fields Ave.
New Orleans, LA. 70117

Dear Mr. Meadows:

Louisiana Medicaid extends its thanks to you and the New Orleans Advocates for LGBTQ+ Elders (NOAGE) for your thoughtful and informative response to the proposed changes to the Medicaid's *Professional Services Program – LAC 50:IX.Chapter 11 and 15106*, which will expand coverage of tobacco cessation counseling services to all Medicaid recipients. Medicaid appreciates the support of the NOAGE in this change. Medicaid also appreciates the suggested additions or changes to Medicaid's tobacco cessation benefits that NOAGE offers for consideration, and each is addressed below.

Regarding the 3 types of counseling for which reimbursement is recommended: The new Rule will expand eligibility for reimbursement of *individual counseling*, and coverage details will be described in the Provider Manual after the Rule is published. *Group counseling* is already available through Medicaid's Specialized Behavioral Health benefits. However, *counseling by phone* is tied to federal regulations around audio-only telehealth, and Medicaid will consider this option if/when CMS allows for reimbursement of this type of service. Until such a time, Medicaid helps to fund the Louisiana Tobacco Quitline, which is available to all residents.

Regarding the quantity of sessions covered, Medicaid will be aligned with federal recommendations and cover at least 4 sessions per quit attempt at least twice a year, with the option of exceeding these limits when medically necessary.

Lastly, Medicaid covers all seven FDA-approved tobacco cessation medications without cost-sharing, and five of those are available without prior authorization (PA). Medicaid is constrained in its ability to remove the PA requirement on two of the medications due to its participation in the Medicaid Drug Rebate Program. However, there are regular opportunities within the Department to review the Preferred Drug List and quantity limitations on medications, and tobacco cessation medications are scheduled to be addressed through the appropriate venues.

Name
Date
Page 2

Given the potential for confusion and uncertainty around Medicaid benefits, especially as they are always changing and evolving, Medicaid has already met with the Louisiana Department of Health's Well-Ahead program staff to plan communications about the new benefits that will be available to Medicaid members through these changes.

Thank you again for your support and guidance as Louisiana Medicaid works to improve access to tobacco cessation resources and services across the state.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Amanda Dumas', followed by a horizontal line extending to the right.

S. Amanda Dumas, MD, MSc, FAAP
Associate Medical Director
Bureau of Health Services Financing (Medicaid)
Louisiana Department of Health



State of Louisiana

Louisiana Department of Health
Bureau of Health Services Financing

May 2, 2023

Alice Kline
The American Cancer Society Cancer Action Network
655 15th Street, NW, Suite 503
Washington, DC 20005

Dear Ms. Kline:

Louisiana Medicaid extends its thanks to you and the American Cancer Society Cancer Action Network (ACS CAN) for your thoughtful and informative response to the proposed changes to the Medicaid's *Professional Services Program – LAC 50:IX.Chapter 11 and 15106*, which will expand coverage of tobacco cessation counseling services to all Medicaid recipients. Medicaid appreciates the support of the ACS CAN in this change. Medicaid also appreciates the suggested additions or changes to Medicaid's tobacco cessation benefits that ACS CAN offers for consideration, and each is addressed below.

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S. Amanda Dumas, MD, MSc, FAAP
Associate Medical Director
Bureau of Health Services Financing (Medicaid)
Louisiana Department of Health

John Bel Edwards
GOVERNOR



Dr. Courtney N. Phillips
SECRETARY

State of Louisiana

Louisiana Department of Health
Bureau of Health Services Financing

May 9, 2023

Evan M. Alvarez
The American Heart Association
7272 Greenville Avenue
Dallas, Texas 75231

Dear Mr. Alvarez,

Louisiana Medicaid extends its thanks to you and the American Heart Association (AHA) for your thoughtful and informative response to the proposed changes to the Medicaid's *Professional Services Program – LAC 50:IX.Chapter 11 and 15106*, which will expand coverage of tobacco cessation counseling services to all Medicaid recipients. Medicaid appreciates the support of the AHA in this change. Medicaid also appreciates the suggested additions or changes to Medicaid's tobacco cessation benefits that AHA offers for consideration, and each is addressed below.

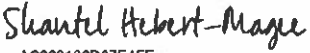
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Lastly, given the potential for confusion and uncertainty around Medicaid benefits, especially as they are always changing and evolving, Medicaid has already met with the Louisiana Department of Health's Well-Ahead program staff to plan communications about the new benefits that will be available to Medicaid members through these changes.

Thank you again for your support and guidance as Louisiana Medicaid works to improve access to tobacco cessation resources and services across the state.

Sincerely,

DocuSigned by:

AC993166D37E4FE

Dr. Shantel Hebert-Magee
Louisiana Medicaid Chief Medical Officer