



State of Louisiana
Louisiana Department of Health
Office of the Secretary

June 10, 2020

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

By Cindy Ruff

Re: Second Report on Proposed Amendments to LAC 50:1.2111 –Dental Benefits
Prepaid Ambulatory Health Plan – Network Provider Reimbursement

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Medicaid Eligibility rule amendment.

A Notice of Intent on the proposed amendments was published in the April 20, 2020 issue of the *Louisiana Register* (LR 46:620). No written comments or 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. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the April 20, 2020, Notice of Intent when it is published as a final rule in the July 20, 2020, issue of the *Louisiana Register*.

Please contact Brandon Bueche, at brandon.bueche@la.gov or (225) 384-0460, if you have any questions or require additional information about this matter.

Cc: Michael Boutte, Deputy Medicaid Director, Louisiana Department of Health
Brandon Bueche, Medicaid Program Manager, LDH
Veronica Dent, Medicaid Program Manager, Policy and Waivers
Anita Dupuy, Legislative Liaison, Louisiana Department of Health
Catherine Brindley, *Louisiana Register* Editor, Office of the State Register

NOTICE OF INTENT

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

**Dental Benefits Prepaid Ambulatory Health Plan
Network Provider Reimbursement
(LAC 50:1.2111)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:I.2111 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 10 of the 2019 Regular Session of the Louisiana Legislature directed the Department of Health, Bureau of Health Services Financing to increase reimbursement rates for dental exams for children under three years of age and restorative dental services provided to Medicaid recipients. In compliance with Act 10, the department promulgated an Emergency Rule which amended the provisions governing the dental benefits prepaid ambulatory health plan in order to increase reimbursement rates for dental exams for children under three years of age and restorative dental services (*Louisiana Register*, Volume 46, Number 4). The proposed Rule is being promulgated in order to continue the provisions of the March 23, 2020 Emergency Rule.

Title 50

PUBLIC HEALTH - MEDICAL ASSISTANCE

Part 1. Administration

Subpart 3. Managed Care for Physical and Behavioral Health

Chapter 21. Dental Benefits Prepaid Ambulatory Health Plan

§2111. Payment Methodology

A. - G. ...

H. Network Provider Reimbursement

1. The DBPM shall provide reimbursement for defined core dental benefits and services provided by an in-network provider pursuant to the terms of its contract with. ~~The DBPM rate of reimbursement shall be no less than the published Medicaid fee-for-service rate in effect on July 1, 2013, unless the department has granted an exception for a provider-initiated alternative payment arrangement.~~

H.2. - I. ...

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 40:788 (April 2014), amended LR 46:

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 as it is expected have a positive effect on the oral health of children and maintain access to dental 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 is expected have a positive effect on the oral health of children and maintain access to dental services.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have a positive impact on small

businesses, as described in R.S. 49:965.2 et seq. by increasing reimbursement rates.

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 may increase payments to providers of dental services.

Public Comments

Interested persons may submit written comments to Erin Campbell, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Campbell is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on May 30, 2020.

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 May 11, 2020. 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 May 28, 2020 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 May 11, 2020. 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.

Stephen R. Russo, JD

Interim Secretary



State of Louisiana
Louisiana Department of Health
Office of the Secretary

June 10, 2020

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

Re: Second Report on Proposed Amendments to LAC 48:I.12529 – Facility Need Review – Relocation of Nursing Facility Beds

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Health Standards Section, submits its second report regarding the proposed Facility Need Review – Relocation of Nursing Facility Beds rule amendment.

A Notice of Intent on the proposed amendments was published in the March 20, 2020 issue of the *Louisiana Register* (LR 46:468). A public hearing was held on 28 May 2020 via Zoom with 32 attendees, however, no oral testimony was given at the hearing. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the March 20, 2020, Notice of Intent when it is published as a final rule in the July 20, 2020, issue of the *Louisiana Register*.

Please contact Cecile Castello, BSN, RN, LDH Assistant Secretary for Health Standards, at cecile.castello@la.gov, if you have any questions or require additional information about this matter.

Cc: Cecile Castello, Assistant Secretary, Louisiana Department of Health, Health Standards Section
Brenda Blanchard, BSN, RN, LNCC, Health Standards Section
Veronica Dent, Medicaid Program Manager, Policy and Waivers
Anita Dupuy, Legislative Liaison, Louisiana Department of Health
Catherine Brindley, *Louisiana Register* Editor, Office of the State Register

NOTICE OF INTENT

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

**Facility Need Review
Relocation of Nursing Facility Beds
(LAC 48:I.12529)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.12529 as authorized by R.S. 36:254 and 40:2116. 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 facility need review (FNR) process in order to allow the department to approve a one-time partial relocation/transfer of a nursing facility's Medicaid FNR approvals to another licensed, certified, and operational nursing facility within the same parish under certain conditions.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 5. Health Planning

Chapter 125. Facility Need Review

Subchapter D. Relocation of Nursing Facility Beds

§12529. General Provisions

A. A nursing facility's approved beds (Medicaid facility need review approvals) cannot be relocated to a different service area, subject to the exception in Section 12529.C below.

B. - B.6.g. ...

C. In addition to Subsection B, approved beds may be relocated in the same service district or same parish under the following conditions.

1. The department may approve a one-time partial relocation/transfer of a nursing facility's Medicaid facility need review (FNR) approvals to another licensed, certified, operational nursing facility in the same parish, provided that all of the following provisions are met:

a. The transferring nursing facility shall send a written request to the department's licensing section at least 30 days before the proposed transfer, for the department's review and approval.

b. The transferring nursing facility may relocate/transfer Medicaid FNR approvals to another nursing facility pursuant to Section 12529.C only once.

c. The transferring nursing facility and the receiving nursing facility shall be related companies which are under "common ownership."

i. For purposes of this Subsection, "common ownership" is defined as the same persons or entities owning at least 80 percent of both companies.

ii. For purposes of this Subsection, ownership includes, but is not limited to, shares in a corporation, membership in a limited liability company, or partnership interest in a partnership or limited liability partnership.

d. The transferring nursing facility may not relocate/transfer less than 10 Medicaid FNR approvals to another nursing facility.

e. A transferring nursing facility may not relocate/transfer more than 25 percent of its Medicaid FNR approvals to another facility.

f. The Medicaid FNR approvals relocated/transferred become Medicaid FNR approvals of the receiving nursing facility, and the transferring nursing facility relinquishes all rights in those Medicaid FNR approvals, but may retain licensure of the licensed nursing facility beds.

g. At the time of the relocation/transfer of the Medicaid FNR approvals, the receiving facility shall have more licensed nursing facility beds than it has Medicaid FNR approvals. The number of Medicaid FNR approvals transferred

shall not exceed the number of licensed-only beds (licensed nursing facility beds not having Medicaid FNR approval) at the receiving nursing facility; the receiving nursing facility is prohibited from receiving more Medicaid FNR approvals than can be utilized for the receiving nursing facility's current licensed bed capacity. Under no circumstances shall a receiving facility license additional beds in order to accommodate the relocated Medicaid FNR approvals. After the relocation, the receiving nursing facility shall have the same number of licensed beds as prior to the relocation.

h. All relocated Medicaid FNR approvals are subject to state and federal bed change guidelines and procedures.

i. The provisions of Section 12529.C pertaining to the transfer of Medicaid FNR approvals shall sunset in 24 months from the date of the promulgation of the final Rule implementing Section 12529.C and shall have no effect henceforth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), LR 28:2190 (October 2002), LR 30:1023 (May 2004),

LR 32:845 (May 2006), LR 34:2619 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1009 (May 2010), amended by the Department of Health, Bureau of Health Services Financing LR 46:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on April 29, 2020.

The department will conduct a public hearing at 9:30 a.m. on April 29, 2020 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. 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.

Stephen R. Russo, JD

Interim Secretary

John Bel Edwards
GOVERNOR



Dr. Courtney N. Phillips
SECRETARY

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

PUBLIC HEARING CERTIFICATION
May 28, 2020
9:30 a.m.

RE: Facility Need Review
Relocation of Nursing Facility Beds
Docket # 05282020-01
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 May 28, 2020 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

Robert K. Andrepoint

Medicaid Policy and Compliance
Section

05/28/20

Date



State of Louisiana
Louisiana Department of Health
Office of the Secretary

June 10, 2020

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 *By Cindy Ruffo*
Secretary

Re: Second Report on Proposed Amendments to LAC 50:XV.16303 – Pregnant Women
Extended Services Tobacco Cessation Counseling

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Health Standards Section, submits its second report regarding the proposed – Hospice Licensing Standards rule amendment.

A Notice of Intent on the proposed amendments was published in the April 20, 2020 issue of the *Louisiana Register* (LR 46:621). No written comments or 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. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the April 20, 2020, Notice of Intent as a final rule when it is published in the July 20, 2020, issue of the *Louisiana Register*.

Should you have any questions or need additional information, please contact Becky Mouton, at becky.mouton@la.gov, if you have any questions or require additional information about this matter.

Cc: Michael Boutte, Deputy Medicaid Director, LDH
Becky Mouton, Medicaid Program Manager, LDH
Veronica Dent, Medicaid Program Manager 1B, Policy and Waivers, LDH
Anita Dupuy, Legislative Liaison, LDH
Catherine Brindley, *Louisiana Register* Editor, Office of the State Register

NOTICE OF INTENT

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

**Pregnant Women Extended Services
Tobacco Cessation Counseling
(LAC 50:XV.16303)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:16303 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 amended the provisions governing extended services for pregnant women in order to implement tobacco cessation services mandated by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (*Louisiana Register*, Volume 46, Number 2). The department now proposes to amend the provisions governing tobacco cessation counseling for pregnant women in order to allow additional sessions in excess of established service limits when deemed medically necessary.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 13. Pregnant Women Extended Services

Chapter 163. Substance Use Screening and Intervention Services

§16303. Scope of Services

A. - B. ...

C. Service Limits. Substance use screening and intervention services shall be limited to one occurrence per pregnancy, or once every 270 days. Pregnant women may also receive up to eight tobacco cessation counseling sessions per year. Limits may be exceeded, based on medical necessity.

C.1. - D. ...

1. Pregnant women may receive four counseling sessions per quit attempt, up to two quit attempts per calendar year. Limits may be exceeded, based on medical necessity. The period of coverage for these services shall include the prenatal period through 60 days postpartum. Services shall be provided:

a. - b.ii. ...

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 40:794 (April 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 46:184 (February 2020), LR 46:

§16305. Reimbursement Methodology

A. Reimbursement for substance use screening and intervention services provided to pregnant women shall be a flat

fee based on the appropriate current procedural terminology (CPT) code.

1. ~~No reimbursement shall be made in excess of the established service limits.~~ 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 40:795 (April 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 46:184 (February 2020), LR 46:

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 reducing prenatal complications and childhood health problems associated with maternal use of tobacco and other substances.

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 is expected to reduce prenatal complications associated with maternal use of tobacco and other substances.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, 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 may increase payments to providers of substance use screening and intervention services.

Public Comments

Interested persons may submit written comments to Erin Campbell, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Campbell is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on May 30, 2020.

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 May 11, 2020. 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 May 28, 2020 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 May 11, 2020. 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.

Stephen R. Russo, JD

Interim Secretary