




State of Louisiana
Louisiana Department of Health
Office of the Secretary

October 9, 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 

Re: Second Report on Proposed Amendments to LAC 50:XXXIII.14501 – Behavioral Health Services Substance Use Disorders Services

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Dental Benefits Prepaid Ambulatory Health Plan rule amendment.

A Notice of Intent on the proposed amendments was published in the August 20, 2020 issue of the *Louisiana Register* (LR 46:1114). 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. Attached with this report are copies of the written comments for the record. 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 August 20, 2020, Notice of Intent when it is published as a final rule in the November 20, 2020, issue of the *Louisiana Register*.

Please contact Missy Graves at missy.graves@la.gov, if you have any questions or require additional information about this matter.

Cc: Missy Graves, Program Manager 1-B, Office of Behavioral Health
Karen Stubbs, Assistant Secretary, Office of Behavioral Health
Veronica Dent, Medicaid Program Manager
Anita Dupuy, Legislative Liaison, Louisiana Department of Health
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing
and
Office of Behavioral Health**

**Behavioral Health Services
Substance Use Disorders Services
(LAC 50:XXXIII.14501)**

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.14501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend the provisions governing substance use disorders services provider participation in order to align the responsibilities for providers of these services with provider requirements for behavioral health services and to repeal redundant or procedural language from the administrative Rule.

Title 50

**PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XXXIII. Behavioral Health Services
Subpart 15. Substance Use Disorders Services**

Chapter 145. Provider Participation

§14501. Provider Responsibilities

A. Each provider of SUD services shall enter into a contract with one or more of the managed care organizations (MCOs) ~~or~~ and with the Coordinated System of Care (CSoC) contractor for youth enrolled in the Coordinated System of Care program in order to receive reimbursement for Medicaid covered services.

B. ~~All services~~Providers shall ~~be delivered~~deliver all services in accordance with their license, scope of practice, federal and state laws and regulations, the provisions of this Rule, the provider manual, and other notices or directives issued by the department. ~~Providers~~ The provider shall ~~meet the provisions of this Rule, the provider manual and the appropriate statutes~~ create and maintain documentation to substantiate that all requirements are met.

~~C. Providers of SUD services shall ensure that all services are authorized and any services that exceed established limitations beyond the initial authorization are approved for re-authorization prior to service delivery~~

~~D. Anyone providing SUD services must be licensed in accordance with state laws and regulations, in addition to operating within their scope of practice license. Providers shall meet the provisions of this Rule, the provider manual and the appropriate statutes.~~

~~E. Providers shall maintain case records that include, at a minimum:~~

- ~~1. the name of the individual;~~
- ~~2. the dates and time of service;~~
- ~~3. assessments;~~
- ~~4. a copy of the treatment plans, which include at a minimum:~~

~~a. goals and objectives, which are specific, measureable, action oriented, realistic and time limited;~~

~~b. specific interventions;~~

~~c. the service locations for each intervention;~~

~~d. the staff providing the intervention; and~~

~~e. the dates of service;~~

~~5. progress notes that include the content of each delivered service, including the reason for the contact describing the goals/objectives addressed during the service, specific intervention(s), progress made toward functional and clinical improvement;~~

~~6. units of services provided;~~

~~7. crisis plan;~~

~~8. discharge plan; and~~

~~9. advanced directive.~~ C. - E.9. Repealed.

F. - F.6. ...

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 38:427 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2357 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:1891 (October 2018), LR 45:270 (February 2019), 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 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, 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 Ruth Johnson, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Johnson is responsible for responding to inquiries regarding this proposed Rule. The

deadline for submitting written comments is at 4:30 p.m. on September 29, 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 September 9, 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 September 24, 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 September 9, 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.

Dr. Courtney N. Phillips

Secretary




State of Louisiana
Louisiana Department of Health
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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 on Proposed Amendments to LAC 50:XV.3503 and 4315 – Hospice Services Pediatric Concurrent Care

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Hospice Services Pediatric Concurrent Care rule amendment.

A Notice of Intent on the proposed amendments was published in the August 20, 2020 issue of the *Louisiana Register* (LR 46:1115). 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. Attached with this report are copies of the written comments for the record. 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 August 20, 2020, Notice of Intent when it is published as a final rule in the November 20, 2020, issue of the *Louisiana Register*.

Please contact Amanda Dumas, at amanda.dumas@la.gov, if you have any questions or require additional information about this matter.

Cc: Amanda Dumas, LDH Associate Medical Director for Medicaid
Michael Boutte, LDH Deputy Medicaid Director
Veronica Dent, LDH Medicaid Program Manager
Anita Dupuy, Legislative Liaison, LDH
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

NOTICE OF INTENT

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

**Hospice Services
Pediatric Concurrent Care
(LAC 50:XV.3503 and 4315)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XV.3503 and adopt §4315 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 hospice services provided concurrently with life-prolonging treatments to individuals under age 21 in order to update existing terminology and reflect current practices, comply with federal requirements which allow for pediatric concurrent care, and promulgate these provisions clearly and accurately in the *Louisiana Administrative Code*.

**Title 50
PUBLIC HEALTH - MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 3. Hospice**

Chapter 35. Recipient Eligibility

§3503. Waiver of Payment for Other Services

A. ~~Individuals who are 21 and over may be eligible for additional personal care services as defined in the Medicaid~~

~~state plan. Services furnished under the personal care services benefit may be used to the extent that the hospice provider would routinely use the services of the hospice patient's family in implementing the patient's plan of care. The hospice provider~~Hospice providers must provide services to ~~the individual beneficiaries~~ that are comparable to the Medicaid-covered services ~~they~~that could have been received ~~through Medicaid~~ prior to ~~their~~the election of hospice. ~~These~~This requirement refers to all Medicaid-covered services ~~include~~including, but ~~are~~ not limited to⁺, durable medical equipment, prescription drugs, and physician-administered drugs.

- ~~1. pharmaceutical and biological services;~~
- ~~2. durable medical equipment; and~~
- ~~3. any other services permitted by federal law;~~
- ~~4. the services listed in §3503.A.1-3 are for illustrative purposes only. The hospice provider is not exempt from providing care if an item or category is not listed~~1. - 4.

Repealed.

B. ~~Individuals under~~ Beneficiaries who are age 21 and over ~~who are approved for hospice~~ may be eligible for additional personal care services as defined in the Medicaid State Plan. Services furnished under the personal care services benefit may be used ~~continue~~ to the extent that ~~receive curative treatments for their terminal illness; however,~~ the hospice provider would otherwise need the services of the hospice beneficiary's family

in implementing the plan of care~~is responsible to coordinate all curative treatments related to the terminal illness.~~

~~1. Curative Treatments medical treatment and therapies provided to a patient with the intent to improve symptoms and cure the patient's medical problem. Antibiotics, chemotherapy, a cast for a broken limb are examples of curative care.~~

~~2. Curative care has as its focus the curing of an underlying disease and the provision of medical treatments to prolong or sustain life.~~

~~3. The hospice provider is responsible to provide durable medical equipment or contract for the provision of durable medical equipment. Personal care services, extended home health, and pediatric day health care must be coordinated with hospice services pursuant to §3705.C1. - 3. Repealed.~~

C. ~~Individuals who elect~~ Beneficiaries under age 21 who are approved for hospice~~services~~ may continue to receive life-prolonging treatments. Life-prolonging treatments are defined as Medicaid-covered ~~also receive early and periodic screening, diagnosis and treatment (EPSDT) personal care services~~ provided to a beneficiary with (PCS) concurrently. The hospice provider and the purpose of treating, modifying, or curing a medical condition to allow the beneficiary to live as long as possible, even if that medical condition is also the hospice qualifying diagnosis. The hospice ~~PCS-provider~~ and other providers must

coordinate life-prolonging treatments and these should be incorporated ~~services and develop the patient's~~ into the plan of care as set forth in §3705.

D. ~~The hospice provider is responsible for making a daily visit to all clients under~~ Beneficiaries under the age of 21 who are approved ~~and for hospice may also receive early and periodic screening, diagnostic and treatment personal~~ the coordination of care, extended home health, and pediatric day health care services concurrently. The hospice provider and the other service providers must coordinate ~~to assure there is no duplication of~~ services and develop the patient's plan of care as set forth in §3705. ~~The daily visit is not required if the person is not in the home due to hospitalization or inpatient respite or inpatient hospice stays.~~

E. For beneficiaries under the age of 21, the hospice provider is responsible for making a daily visit, unless specifically declined by the beneficiary or family, to coordinate care and ensure that there is no duplication of services. The daily visit is not required if the beneficiary is not in the home due to hospitalization or inpatient respite or inpatient hospice stays.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health

Services Financing, LR 28:1467 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:129 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

Chapter 43. Reimbursement

§4315. Life-Prolonging Treatments for Beneficiaries under the Age of 21

A. Reimbursement for life-prolonging treatments is separate from hospice payments and is made to the providers furnishing the services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Health, 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 no impact on family stability and autonomy as described in R.S. 49:972, but may improve family

functioning by providing support for health supervision and relieving undue stress over life-prolonging care for children certified for hospice care.

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 by ensuring that recommended and approved life-prolonging care will be provided separately from hospice 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 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, 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 Ruth Johnson, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Johnson is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on September 29, 2020.

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(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.

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