



State of Louisiana
Louisiana Department of Health
Office of the Secretary

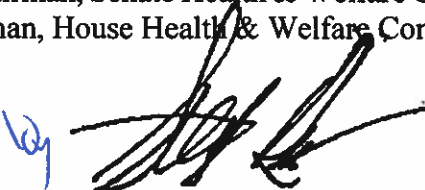
October 8, 2021

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 LAC 50:XIX.4301 and 4334 – Laboratory and Radiology Reimbursement Methodology



Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Reimbursement for Laboratory and Radiology Reimbursement Methodology, LAC 50:XIX.4301 and 4334.

A Notice of Intent on the proposed amendments was published in the August 20, 2021 issue of the *Louisiana Register* (LR 47:1179). 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. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the August 20, 2021, Notice of Intent when it is published as a final rule in the November 20, 2021, issue of the *Louisiana Register*.

Please contact Marcus Bachhuber, MD, Marcus.Bachhuber@la.gov and Andrew Perilloux, Andrew.Perilloux@la.gov, if you have any questions or require additional information about this matter.

Cc: Patrick Gilles, Medicaid Director, LDH
Marcus Bachhuber, MD, Medicaid Program Manager, LDH
Jennifer Katzman, Interim Senior Staff Advisor, LDH
Kelly Zimmerman, Interim Medicaid Deputy Director, LDH
Veronica Dent, Medicaid Program Manager, LDH
Bethany Blackson, Legislative Liaison, LDH
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

provide shock absorbing protection to the upper body, as evidenced by a label with a rating of five, by the British Equestrian Trade Association. This shall also apply to association outriders, pony riders in post parade, and assistant starters. Anyone failing to comply with this requirement may be fined or suspended at the discretion of the stewards and/or commission.

~~AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.~~

~~HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:423 (December 1976), amended LR 3:19 (January 1977), LR 4:271 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 33:844 (May 2007), LR 47:~~

Family Impact Statement

~~This proposed Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.~~

Poverty Impact Statement

~~This proposed Rule has no known impact on poverty as described in R.S. 49:973.~~

Small Business Analysis

~~This proposed Rule has no known measurable impact on small businesses as described in R.S. 49:965.6.~~

Provider Impact Statement

~~This proposed Rule has no known impact on providers of services for individuals with developmental disabilities.~~

Public Comments

~~The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4:30 p.m. Monday-Friday, and interested parties may submit oral or written comments, data, views, or arguments relative to this proposed Rule for a period up to 20 days (exclusive of weekends and state holidays) from the date of this publication to Brett Bonin, Assistant Attorney General, 320 North Carrollton Avenue, Suite 2-B, New Orleans, Louisiana 70119-5100.~~

Charles A. Gardiner III
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Protective Helmets and Safety Vests

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

~~There is no anticipated direct material effect on state or local governmental units as a result of the proposed administrative rule. The proposed amendment to the rule updates the people who need to wear protective helmets and safety vests. It also specifies the authorities who can impose fines and suspensions for non-compliance.~~

~~II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)~~

~~There is no estimated effect on revenue collections of state or local governmental units as a result of the proposed administrative rule.~~

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

~~Jockeys, association riders, pony riders, and assistant starters will be impacted by the proposed administrative rule in that it allows for penalties of fines and suspensions associated with not wearing the recommended protective helmets and safety vests at~~

~~the discretion of the Stewards and Racing Commission. This may have an economic impact to directly affected persons.~~

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

~~There is no effect on competition and employment as a result of the proposed administrative rule change.~~

Charles A. Gardiner III
Executive Director
2108#015

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Laboratory and Radiology Services
Reimbursement Methodology
(LAC 50:XIX.4301 and 4334)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XIX.4301 and §4334 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 reimbursement for laboratory and radiology services in order to align the reimbursement methodology for new laboratory and radiology services added to the Medicaid fee schedule with U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) requirements and the CMS-approved State Plan Amendment.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XIX. Other Healthcare Services

Subpart 3. Laboratory and Radiology Services

Chapter 43. Reimbursement

§4301. Laboratory Services Reimbursement Methodology

A. - B. ...

C. For newly added laboratory services, the Medicaid fee shall be set at 75 percent of the current year's Medicare allowable fee.

1. In the absence of a Medicare fee, the fee shall be set at the Medicaid fee for a similar service or the Medicaid fee for other states. In the absence of a similar service or a Medicaid fee for other states, the fee shall be set at the cost of performing the service.

C.2. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), P.L. 98-369, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 5:388 (December 1979), amended LR 8:75 (February 1982), LR 8:144 (March 1982), LR 10:1034 (December 1984), LR 12:679 (October 1986), LR 22:107 (February 1996), repromulgated (for LAC) LR 28:1024 (May 2002), amended by the Department of Health, Bureau of Health Services Financing, LR 47:251 (February 2021), LR 47:

§4334. Radiology Services Reimbursement Methodology

A. - B. ...

C. For newly added radiology services, the Medicaid fee shall be set at 75 percent of the current year's Louisiana Region 99 Medicare allowable fee.

1. In the absence of a Medicare fee, the fee shall be set at the Medicaid fee for a similar service or the Medicaid fee for other states. In the absence of a similar service or a Medicaid fee for other states, the fee shall be set at the cost of performing the service.

D. - 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 35:1897 (September 2009), amended LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:3029 (October 2011), LR 39:1284 (May 2013), LR 41:539 (March 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 44:283 (February 2018), amended by the Department of Health, Bureau of Health Services Financing, LR 47:252 (February 2021), LR 47:

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, 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 Michael Boutte, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. Mr. Boutte 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, 2021.

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 September 9, 2021. 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 29, 2021 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, 2021. 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: Laboratory and Radiology Services Reimbursement Methodology

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 21-22. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 21-22 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 21-22. It is anticipated that \$324 will be collected in FY 21-22 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 amends the provisions governing reimbursement for laboratory and radiology services in order to align the reimbursement methodology for new laboratory and radiology services added to the Medicaid fee schedule with U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) requirements and the CMS-approved State Plan Amendment. Although the methodology for newly added laboratory and radiology services is being specified more fully in the administrative rule, the resulting fee is not anticipated to be materially higher or lower than it would have been otherwise; therefore, implementation of this proposed rule is not anticipated to result in costs or benefits to providers of these services in FY 21-22, FY 22-23, and FY 23-24.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.c

Michael Boutte

Alan M. Boxberger

NOTICE OF INTENT

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

**Medical Transportation Program
(LAC 50:XXVII.Chapters 5 and 7)**

The Department of Health, Bureau of Health Services Financing proposes to repeal and replace the provisions of LAC 50:XXVII.Chapter 5 and adopt Chapter 7 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 Procedures Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the Medical Transportation Program in order to repeal and replace Chapter 5 governing non-emergency medical transportation in its entirety and relocate the non-emergency ambulance transportation provisions to Chapter 7 to ensure that the *Louisiana Administrative Code* reflects current managed care and fee for service practices.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XXVII. Medical Transportation Program

Chapter 5. Non-Emergency Medical Transportation

Subchapter A. General Provisions

§501. Introduction

A. Non-emergency medical transportation (NEMT) is provided to Medicaid beneficiaries to and/or from a medically necessary Medicaid covered service. NEMT is intended to provide transportation only after all reasonable means of free transportation have been explored and found to be unavailable.

NOTE: Non-emergency ambulance transportation (NEAT) is a form of NEMT; NEAT provisions are located in LAC 50:XXVII.Chapter 7.

B. Medicaid covered transportation is available to Medicaid beneficiaries when:

1. the beneficiary is enrolled in a Medicaid benefit program that explicitly includes transportation services; and
2. the beneficiary or their representative has stated that they have no other means of transportation.

C. This Chapter applies to the fee-for-service and managed care programs for the provision of NEMT to and/or from medically necessary Medicaid covered services.

1. Managed care entities may utilize fully credentialed NEMT providers within their networks to transport managed care enrollees to non-Medicaid covered services when approved by the department as a value-added benefit at the managed care entity's expense.

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 47:

§503. Prior Approval and Scheduling

A. The department or its designee will review and approve or deny the transportation requests, prior to scheduling, for beneficiary eligibility and verification of the following:

1. that the originating or destination address belongs to a healthcare provider or facility; or
2. that the service is a prior authorized Medicaid covered service performed in the community.

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 47:

§505. Requirements for Coverage

A. Payment shall only be authorized for the least costly means of transportation available. The least costly means of transportation shall be determined by the department or its designee and considered the beneficiary's choice of transportation, the level of service required to safely transport the beneficiary (e.g., ambulatory, wheelchair, transfer), and the following hierarchy:

1. public providers;
2. gas reimbursement providers who are enrolled in the Medicaid Program;
3. non-profit providers who are enrolled in the Medicaid Program; and
4. profit providers enrolled in the Medicaid Program.

B. Beneficiaries shall be allowed a choice of transportation profit providers as long as it remains the least costly means of transportation.

C. Beneficiaries are encouraged to utilize healthcare providers of their choice in the community in which they reside when the beneficiary requires Medicaid reimbursed transportation services.

1. Beneficiaries may seek medically necessary services in another state when it is the nearest option available.

2. In the managed care program, transportation will only be approved to and/or from a healthcare provider within the department's geographic access standards, unless granted an extension by the department or its designee.

D. Beneficiaries and healthcare providers should give advance notice when requesting transportation.

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 47:

Subchapter B. Beneficiary Participation

§511. General Provisions

A. Beneficiaries shall participate in securing transportation at a low cost and shall agree to use public transportation or solicit transportation from family and friends as an alternative to costlier means of transport.

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 47:

Subchapter C. Provider Responsibilities

§517. Provider Enrollment

A. All NEMT providers must comply with all applicable federal, state, and local laws and regulations, including, but not limited to, those pertaining to enrollment and participation in the Medicaid Program.

B. Non-emergency medical transportation profit providers shall have a minimum liability insurance coverage



State of Louisiana
Louisiana Department of Health
Office of the Secretary

October 8, 2021

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 LAC 50:XXVII.Chapter 5 and Chapter 7 – Medical Transportation Program

A handwritten signature in blue ink, appearing to be "by [Signature]", next to the "From:" field.

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Rule for Medical Transportation Program, LAC 50:XXVII.Chapter 5 and Chapter 7.

A Notice of Intent on the proposed amendments was published in the August 20, 2021 issue of the *Louisiana Register* (LR 47:1181). 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 August 20, 2021, Notice of Intent when it is published as a final rule in the November 20, 2021, issue of the *Louisiana Register*.

Please contact Veronica Gonzales, at Veronica.Gonzales@la.gov, and Stacy Guidry, at Stacy.Guidry@la.gov, if you have any questions or require additional information about this matter.

Cc: Patrick Gilles, Medicaid Director, LDH
Michael Boutte, Medicaid Deputy 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

Medical Transportation Program (LAC 50:XXVII.Chapters 5 and 7)

The Department of Health, Bureau of Health Services Financing proposes to repeal and replace the provisions of LAC 50:XXVII.Chapter 5 and adopt Chapter 7 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 Procedures Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the Medical Transportation Program in order to repeal and replace Chapter 5 governing non-emergency medical transportation in its entirety and relocate the non-emergency ambulance transportation provisions to Chapter 7 to ensure that the *Louisiana Administrative Code* reflects current managed care and fee-for-service practices.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XXVII. Medical Transportation Program

Chapter 5. Non-Emergency Medical Transportation

Subchapter A. General Provisions

§501. Introduction

A. Non-emergency medical transportation (NEMT) is provided to Medicaid beneficiaries to and/or from a medically necessary Medicaid covered service. NEMT is intended to provide transportation only after all reasonable means of free transportation have been explored and found to be unavailable.

NOTE: Non-emergency ambulance transportation (NEAT) is a form of NEMT; NEAT provisions are located in LAC 50:XXVII.Chapter 7.

B. Medicaid covered transportation is available to Medicaid beneficiaries when:

1. the beneficiary is enrolled in a Medicaid benefit program that explicitly includes transportation services; and
2. the beneficiary or their representative has stated that they have no other means of transportation.

C. This Chapter applies to the fee-for-service and managed care programs for the provision of NEMT to and/or from medically necessary Medicaid covered services.

1. Managed care entities may utilize fully credentialed NEMT providers within their networks to transport managed care enrollees to non-Medicaid covered services when approved by the department as a value-added benefit at the managed care entity's expense.

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 47:

§503. Prior Approval and Scheduling

A. The department or its designee will review and approve or deny the transportation requests, prior to scheduling, for beneficiary eligibility and verification of the following:

1. that the originating or destination address belongs to a healthcare provider or facility; or
2. that the service is a prior authorized Medicaid covered service performed in the community.

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 47:

§505. Requirements for Coverage

A. Payment shall only be authorized for the least costly means of transportation available. The least costly means of transportation shall be determined by the department or its designee and considered the beneficiary's choice of transportation, the level of service required to safely transport the beneficiary (e.g., ambulatory, wheelchair, transfer), and the following hierarchy:

1. public providers;
2. gas reimbursement providers who are enrolled in the Medicaid Program;
3. non-profit providers who are enrolled in the Medicaid Program; and
4. profit providers enrolled in the Medicaid Program.

B. Beneficiaries shall be allowed a choice of transportation profit providers as long as it remains the least costly means of transportation.

C. Beneficiaries are encouraged to utilize healthcare providers of their choice in the community in which they reside when the beneficiary requires Medicaid reimbursed transportation services.

1. Beneficiaries may seek medically necessary services in another state when it is the nearest option available.

2. In the managed care program, transportation will only be approved to and/or from a healthcare provider within the department's geographic access standards, unless granted an extension by the department or its designee.

D. Beneficiaries and healthcare providers should give advance notice when requesting transportation.

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 47:

Subchapter B. Beneficiary Participation

§511. General Provisions

A. Beneficiaries shall participate in securing transportation at a low cost and shall agree to use public transportation or solicit transportation from family and friends as an alternative to costlier means of transport.

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 47:

Subchapter C. Provider Responsibilities

§517. Provider Enrollment

A. All NEMT providers must comply with all applicable federal, state, and local laws and regulations, including, but not limited to, those pertaining to enrollment and participation in the Medicaid Program.

B. Non-emergency medical transportation profit providers shall have a minimum liability insurance coverage

of \$25,000 per person, \$50,000 per accident and \$25,000 property damage policy.

1. The liability policy shall cover:

- a. any autos, hired autos, and non-owned autos; or
- b. scheduled autos, hired autos, and non-owned autos.

2. Statements of insurance coverage from the agent writing the policy are not acceptable. Proof must include the dates of coverage and a 30-day cancellation notification clause. Proof of renewal must be received by the department or its designee no later than 48 hours prior to the end date of coverage. The policy must provide that the 30-day cancellation notification be issued to the department or its designee.

3. Upon notice of cancellation or expiration of the coverage, the department or its designee will suspend the provider's Medicaid enrollment, effective on the date of cancellation or expiration.

C. As a condition of reimbursement for transporting Medicaid beneficiaries to and/or from healthcare services, gas reimbursement providers must maintain a current valid vehicle registration, the state minimum automobile liability insurance coverage, and a current valid driver's license. Proof of compliance with these requirements must be submitted to the department or its designee during the enrollment process. Gas reimbursement providers are allowed to transport up to five specified Medicaid beneficiaries or all members of one household. Individuals transporting more than five Medicaid beneficiaries or all members of one household shall be considered profit providers and shall be enrolled as such and comply with all profit provider requirements.

D. A provider must agree to cover the entire parish or parishes for which he or she provides non-emergency medical transportation services.

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 47:

Subchapter D. Reimbursement

§523. General Provisions

A. Reimbursement for NEMT services shall be based upon the current fee schedule.

B. Reimbursement will not be made for any additional person(s) who must accompany the beneficiary to the medical 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 47:

Chapter 7. Non-Emergency Ambulance Transportation

§701. Introduction

A. Non-emergency ambulance transportation (NEAT) is ground or air ambulance transportation provided to Medicaid beneficiaries to and/or from a medically necessary Medicaid covered service when the beneficiary's condition is such that use of any other method of transportation is contraindicated or would make the beneficiary susceptible to injury.

B. Medicaid covered transportation is available to Medicaid beneficiaries when:

1. the beneficiary is enrolled in a Medicaid benefit program that explicitly includes transportation services; and

2. the beneficiary or their representative has stated that they have no other means of transportation.

C. This Chapter applies to the fee for service and managed care programs for the provision of NEAT to and/or from medically necessary Medicaid covered services.

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 47:

§703. Provider Responsibilities

A. All ambulance providers must be licensed by the Department of Health, Bureau of Emergency Medical Services.

B. All NEAT providers must comply with all applicable federal, state, local laws, and regulations, including, but not limited to, those pertaining to enrollment and participation in the Medicaid Program.

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 47:

§705. Prior Approval and Scheduling

A. The department or its designee must review and approve or deny the transportation requests, prior to scheduling, for beneficiary eligibility and verification of the following:

1. that the originating or destination address belongs to a healthcare provider or facility; and

2. that a completed certification of ambulance transportation form is received for the date of service.

B. Out-of-state NEAT and non-emergency air ambulance services may require additional approval.

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 47:

§707. Reimbursement

A. Reimbursement for NEAT services shall be based upon the current Medicaid fee schedule.

B. Reimbursement for NEAT claims shall be allowed only when accompanied by the certification of ambulance transportation form justifying the need for ambulance services.

C. Reimbursement will not be made for any additional person(s) who must accompany the beneficiary to the medical 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 47:

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 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 Michael Boutte, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Mr. Boutte is responsible for responding to this proposed Rule. The deadline for submitting written comments is at close of business, 4:30 p.m., on September 29, 2021.

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 September 9, 2021. 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 29, 2021 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, 2021. 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: Medical Transportation Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL 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 21-22. It is anticipated that \$1,296 (\$648 SGF and \$648 FED) will be expended in FY 21-22 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 21-22. It is anticipated that \$648 will be collected in FY 21-22 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 amends the provisions governing the Medical Transportation Program in order to repeal and replace Chapter 5 governing non-emergency medical transportation in its entirety and relocate the non-emergency ambulance transportation provisions to Chapter 7 to ensure that the Louisiana Administrative Code reflects current managed care and fee-for-service practices. It is anticipated that implementation of this proposed Rule will not result in any cost or benefits to NEMT providers in FY 21-22, FY 22-23, and FY 23-24, as it aligns the language in the administrative rule with current practices.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Michael Boutte
Interim Medicaid Executive Director
2108#032

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 117—Submission of Contact Information for Risk-Bearing Entities (LAC 37:XIII:Chapter 175)

~~The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 and 22:11 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to promulgate Regulation 117 Submission of Contact Information for Risk-Bearing Entities. Regulation 117:~~

~~(1) establishes a procedure for the submission of required contact information for risk-bearing entities;~~

~~(2) sets a specific date and method for the submission of the annual filing to inform the commissioner of the contact information required pursuant to R.S. 22:41.2;~~

~~(3) establishes the procedure and time limitation to notify the commissioner of a change in the contact information that was provided with the annual filing; and~~

~~(4) provides for penalties for the failure to timely make the annual filing or to submit a notice of change in the contact information to the commissioner.~~



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

October 6, 2021

Mr. Curry Landry, Policy Director
Louisiana Ambulance Alliance
301 Main Street, Suite 600
Baton Rouge, LA 70825

Dear Mr. Landry:

RE: Medical Transportation Program LAC 50 XXVII. Chapters 5 and 7

This letter is in response to your correspondence regarding the Notice of Intent for Medical Transportation Program LAC 50 XXVII. Chapters 5 and 7, which was published in the August 2021 edition of the *Louisiana Register*.

Thank you for taking the time to provide comments relative to the proposed Medicaid Transportation Program Rule that will repeal and replace Chapter 5 governing non-emergency medical transportation in its entirety and relocate the non-emergency ambulance transportation provisions to Chapter 7. This change ensures the Louisiana Administrative Code reflects current managed care and fee-for-service practices.

Staff members of Medicaid's Program Operations and Compliance Section have reviewed your concerns and recommendations for technical revisions to the proposed provisions. The responses to the concerns noted in your correspondence are below.

Section 501 (pg. 1181) – Introduction

The Alliance's recommendation would be to clarify that the general NEMT provisions contained in Chapter 5 do not apply to ambulance providers, and the only provisions which are applicable to NEAT are contained in Chapter 7.

While we appreciate the Alliance's recommendation, no modification is required as the provision clearly states that the provisions applicable to NEAT are contained in Chapter 7.

Section 701 (B)(1-2) (pg. 1182) – Introduction

The Alliance's recommendation would be to delete "the beneficiary or their representative has stated that they have no other means of transportation" from the proposed rule.

The CMS-approved Medicaid State Plan establishes the requirement that a beneficiary not have any other means of transportation for all transportation services. This requirement prohibits the recommended modification suggested by the Alliance.

Section 705 (A) (pg. 1182) -- Prior Approval and Scheduling

The Alliance would recommend that that the following language from the manual be adopted into the rule to provide clarity on the issue: "NEAT must be scheduled by the beneficiary or a medical facility through the transportation broker or the ambulance provider.

•If transportation is scheduled through the transportation broker, the transportation broker shall verify, prior to scheduling, beneficiary eligibility, that the originating or destination address belongs to a medical facility, and that a completed Certification of Ambulance Transportation form is received for the date of service. Once the trip has been dispatched to an ambulance provider and completed, the ambulance provider shall be reimbursed upon submission of the clean claim for the transport.

If transportation is scheduled through the ambulance provider, the ambulance provider must verify beneficiary eligibility, that the originating or destination address belongs to a medical facility, and that a completed Certification of Ambulance Transportation form is received for the date of service. The transportation broker shall reimburse the ambulance provider only if a completed Certification of Ambulance Transportation form is submitted with the clean claim or is on file with the transportation broker prior to reimbursement."

While we appreciate the suggestions from the Alliance, modifications to this language are not necessary. The fee-for-service and managed care manuals outline the process for ambulance providers. If an ambulance provider elects to conduct the verification after the transport occurs, that provider is at risk of not being reimbursed if services were provided to a beneficiary that was not eligible for transportation services.

Section 705 (B) (pg. 1182) -- Prior Approval and Scheduling

The proposed rule states that out-of-state NEAT and non-emergency air ambulance services may require additional approval. What types of additional approvals are contemplated by this rule? Are the additional approvals memorialized anywhere (Medicaid manual, information bulletins, etc.)

The approval of out-of-state transportation is contingent upon the prior approval of the medical service to which the beneficiary is being transported. This requirement is contained in the fee-for-service and managed care manuals.

The Alliance's concerns regarding the Notice of Intent have been reviewed thoroughly. After giving due consideration to the issues noted in the correspondence, the decision has been made to continue with the provisions of the August 2021 Notice of Intent as

Mr. Curry Landry
October 6, 2021
Page 3

published in the *Louisiana Register*.

We appreciate your willingness to provide comments regarding these proposed amendments to the medical transportation program provisions and hope that the Alliance will continue to work with us as we strive to improve health care outcomes for Louisiana citizens. Should you have any questions regarding rulemaking activity relative to the Medicaid administrative rulemaking, you may contact Veronica Dent, Medicaid Program Manager, at 225-342-3238 or by email to Veronica.Dent@la.gov.

Sincerely,



Michael L. Boutte
Medicaid Deputy Director