



**State of Louisiana**  
Louisiana Department of Health  
Office of the Secretary

November 7, 2019

**Via Statutorily Prescribed Email**

**To:** The Honorable Fred H. Mills, Jr. Chairman, Senate Health & Welfare Committee  
The Honorable Frank A. Hoffmann, Chairman, House Health & Welfare Committee

**From:** Rebekah E. Gee, MD, MPH  
Secretary

*By Cindy Rive for*

**Re:** Second Report on Proposed Amendments to LAC 50.V.2503 and 2719  
Disproportionate Share Hospital Payments Major Medical Centers

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Disproportionate Share Hospital Payments – Major Medical Centers LAC 50:V.2503 and 2719 rule amendment.

A Notice of Intent on the proposed amendments was published in the September 20, 2019 issue of the *Louisiana Register* (LR 45:1256). 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 September 20, 2019, Notice of Intent when it is published as a final rule in the December 20, 2019, issue of the *Louisiana Register*.

LAC 50.V.2503 and 2719

November 7, 2019

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Should you have any questions or need additional information, please contact Jen Katzman, Medicaid Deputy Director, at [Jennifer.Katzman@la.gov](mailto:Jennifer.Katzman@la.gov).

Cc: Jen Katzman, Deputy Medicaid Director, Department of Health  
Veronica Dent, Medicaid Program Manager, Department of Health  
Anita Dupuy, Legislative Liaison, Department of Health  
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

## **NOTICE OF INTENT**

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

#### **Disproportionate Share Hospital Payments Major Medical Centers (LAC 50:V.2503 and 2719)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:V.2503 and adopt §2719 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 adopt provisions to establish a qualification criteria and disproportionate share hospital (DSH) payment methodology for major medical centers located in the southeastern area of Louisiana.

## **TITLE 50**

### **PUBLIC HEALTH-MEDICAL ASSISTANCE**

#### **Part V. Hospital Services**

#### **Subpart 3. Disproportionate Share Hospital Payments**

#### **Chapter 25. Disproportionate Share Hospital Payment**

#### **Methodologies**

#### **§2503. Disproportionate Share Hospital Qualifications**

A. In order to qualify as a disproportionate share hospital, a hospital must:

1. - 9. ...

10. effective June 29, 2016, be a major medical center located in the central and northern areas of the state as defined in §2715.A; and

11. ~~effective July 1, 1994, must also have a Medicaid inpatient utilization rate of at least 1 percent.~~ be a major medical center with a specialized care unit located in the southwestern area of the state as defined in §2717.A;

12. be a major medical center located in the southeastern area of the state as defined in §2719.A; and

13. effective July 1, 1994, must also have a Medicaid inpatient utilization rate of at least 1 percent.

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 34:655 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3294 (December 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 43:962 (May 2017), LR 45:

## **Chapter 27. Qualifying Hospitals**

### §2719. Major Medical Centers Located in the Southeastern Area of the State



A. Effective for dates of service on or after January 1, 2020, hospitals qualifying for payments as major medical centers located in the southeastern area of the state shall meet the following criteria:

1. be a private, non-rural hospital located in Department of Health administrative region 1;

2. have at least 175 inpatient beds as reported on the Medicare/Medicaid cost report, Worksheet S-3, column 2, lines 1-18, for the state fiscal year ending June 30, 2018. For qualification purposes, inpatient beds shall exclude nursery and Medicare-designated distinct part psychiatric unit beds;

3. is certified as an advanced comprehensive stroke center by the Joint Commission as of June 30, 2018;

4. does not qualify as a Louisiana low-income academic hospital under the provisions of §3101; and

5. does not qualify as a party to a low income and needy care collaboration agreement with the Department of Health under the provisions of §2713.

B. Payment Methodology. Effective for dates of service on or after January 1, 2020, each qualifying hospital shall be paid a DSH adjustment payment which is the pro rata amount calculated by dividing their hospital specific allowable uncompensated care costs by the total allowable uncompensated care costs for all hospitals qualifying under this category and

multiplying by the funding appropriated by the Louisiana Legislature in the applicable state fiscal year for this category of hospitals.

1. Costs, patient specific data and documentation that qualifying criteria is met shall be submitted in a format specified by the department.

2. Reported uncompensated care costs shall be reviewed by the department to ensure compliance with the reasonable costs definition in the Medicare Provider Reimbursement Manual, Part 1, Chapter 21, Section 2102.1, Revision 454. Allowable uncompensated care costs must be calculated using the Medicare/Medicaid cost report methodology.

3. Aggregate DSH payments for hospitals that receive payment from this category, and any other DSH category, shall not exceed the hospital's specific DSH limit. If payments calculated under this methodology would cause a hospital's aggregate DSH payment to exceed the limit, the payment from this category shall be capped at the hospital's specific DSH limit.

4. A pro rata decrease, necessitated by conditions specified in §2501.B.1 above for hospitals described in this Section, will be calculated based on the ratio determined by dividing the hospital's uncompensated costs by the uncompensated costs for all of the qualifying hospitals described in this Section, then multiplying by the amount of disproportionate



share payments calculated in excess of the federal DSH allotment.

a. If additional payments or recoupments are required based on the results of the mandated DSH audit report, they shall may be made within one year after the final report for the state fiscal year is submitted to the Centers for Medicare and Medicaid Services (CMS).

b. Additional payments shall be limited to the aggregate amount recouped from the qualifying hospitals described in this section, based on the reported DSH audit results.

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 45:

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 Statement**

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 increases payments to providers.

#### **Public Comments**

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 30, 2019.

#### **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, 2019. 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 30, 2019 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, 2019. 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.

Rebekah E. Gee MD, MPH

Secretary



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**To:** The Honorable Fred H. Mills, Jr. Chairman, Senate Health & Welfare Committee  
The Honorable Frank A. Hoffmann, Chairman, House Health & Welfare Committee

**From:**   
Rebekah E. Gee, MD, MPH  
Secretary

**Re:** Second Report on Proposed Amendments to LAC 50.XXI.Chapters 161, 163, and §16901 Home and Community-Based Services Waivers Residential Option Waiver

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

A Notice of Intent on the proposed amendments was published in the September 20, 2019 issue of the *Louisiana Register* (LR 45:1258). Written comments were received during the public comment period. 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. 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 September 20, 2019, Notice of Intent when it is published as a final rule in the December 20, 2019, issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. summary of the written comments;
3. copy of the response letter from the agency to submitted comments.

Should you have any questions or need additional information, please contact Jen Katzman, Medicaid Deputy Director, at [Jennifer.Katzman@la.gov](mailto:Jennifer.Katzman@la.gov).

**Cc:** Jen Katzman, Deputy Medicaid Director, Department of Health  
Veronica Dent, Medicaid Program Manager, Department of Health  
Anita Dupuy, Legislative Liaison, 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 for Citizens with Developmental Disabilities**

**Home and Community-Based Services Waivers  
Residential Options Waiver  
(LAC 50:XXI.Chapters 161, 163 and §16901)**

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:Chapters 161, 163 and §16901 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 for Citizens with Developmental Disabilities (OCDD) propose to amend the provisions governing the Residential Options Waiver (ROW) in order to restore the minimum age for access to the ROW and delete the grandfather clause for participants under age 21, add the monitored in-home caregiving service, change units for specific services to a 15 minute rate and clarify and align provisions of the ROW with other OCDD home and community-based services waivers.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part XXI. Home and Community Based Services Waivers**  
**Subpart 13. Residential Options Waiver**

**Chapter 161. General Provisions**

**§16101. Introduction**

A. ...

B. The goal of the Residential Options Waiver is to promote independence through strengthening the individual's capacity for self-care, self-sufficiency and community integration utilizing a wide array of services, supports and residential options, which best meets the individual's needs and preferences, while supporting the dignity, quality of life, and security in the everyday life of the individual as he/she is a member of his/her 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 and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2154 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

**§16103. Program Description**

A. The ROW is designed to utilize the principles of self-determination and to supplement the family and/or community supports that are available to maintain the individual in the community and are designed to allow an individual experience that mirrors the experiences of individuals without disabilities. These services are not to be restrictive, but liberating, by empowering individuals to experience life in the most fulfilling manner as defined by the individual while still assuring health and safety. In keeping with the principles of self-determination, ROW includes a self-direction option, which allows for greater flexibility in hiring, training and general service delivery issues. ROW services are meant to enhance, not replace existing informal networks.

B. ROW offers an alternative to institutional care that:

1. utilizes a wide array of services, supports and residential options, which best meet the individual's needs and preferences;

B.2. - D. ...

E. The total expenditures available for each waiver participant is established through an assessment of individual support needs and ~~will~~ may not exceed the approved ICF/ID ICAP rate/ROW budget level established for that individual except as approved by Office for Citizens with Developmental Disabilities'



(OCDD's) assistant secretary, deputy assistant secretary or his/her designee to prevent institutionalization.

1. When the department determines that it is necessary to adjust the ICF/ID ICAP rate, each waiver participant's annual service budget ~~shall~~ may be adjusted to ensure that the participant's total available expenditures do not exceed the approved ICAP rate.

F. ...

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 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2154 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

**§16104. Settings for Home and Community Based Services**

A. ROW participants are expected to be integrated in and have full access to the greater community while receiving services, to the same extent as individuals without disabilities. Providers shall meet the requirements of the Centers for Medicare and Medicaid Services (CMS) home and

community-based setting requirements for home and community-based services (HCBS) waivers as delineated in LAC 50:XXI, Subpart 1 or any subsequent 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 45:

**§16105. Participant Qualifications**

A. In order to qualify for Residential Options Waiver (ROW), ~~an individual~~ individuals ~~must be 21 years of age or older and~~ of all ages must meet all of the following criteria:

1. - 8. ...

B. Individuals ~~under the age of 21 who receive~~ 18 through 20 may be offered a funded ROW ~~services prior to promulgation of this final Rule will be grandfathered in to~~ opportunity if the results of the uniform needs-based assessment and person-centered planning discussion determine that the ROW ~~program is the most appropriate waiver.~~ Individuals under the age of 21 who are in the process of being certified into the ROW prior to the promulgation of this final Rule will retain their ROW offer and be allowed to transition to the ROW program These offers are subject to the approval of the OCDD assistant secretary/designee.

~~C. Individuals age 18 through 20 may be offered a funded ROW opportunity if the results of the uniform needs-based assessment and person-centered planning discussion determine that the ROW is the most appropriate waiver. These offers must be approved by the OCDD assistant secretary/designee.~~ 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 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2155 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2530 (December 2017), LR 45:

**§16107. Programmatic Allocation of Waiver Opportunities**

A. - B.2. ...

3. Individuals on the registry who have the highest level of need and the earliest registry date shall be notified in writing when a funded OCDD waiver opportunity is available and that he/she is next in line to be evaluated for a possible waiver assignment. Participants shall have justification, based on a uniform needs-based assessment and a person-centered



planning discussion that the ROW is the OCDD waiver that will meet the needs of the individual.

B.4. - C. ...

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 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2155 (October 2015), LR 42:62 (January 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2530 (December 2017), LR 45:

**§16109. Admission, Denial or Discharge Criteria**

A. Admission to the ROW Program shall be denied if one of the following criteria is met.

1. - 7. ...

8. The individual does not have justification, based on a uniform needs-based assessment and a person-centered planning discussion that the ROW is the OCDD waiver that will meet the needs of the individual.

B. - B.10. ...

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 33:2443 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2156 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

#### **Chapter 163. Covered Services**

##### **§16303. Community Living Supports**

A. - E.6. ...

7. Community living supports services are not available to individuals receiving the following services:

- a. ...
- b. home host; ~~or~~
- c. companion care~~;~~ or
- d. monitored in-home caregiving.

8. Community living supports cannot be billed or provided for during the same hours on the same day that the participant is receiving the following services:

- a. - c. ...
- d. respite out-of-home services; ~~or~~



e. transportation-community access-;

f. monitored in-home caregiving; or

g. adult day health care.

F. - F.1. ...

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 33:2443 (November 2007), amended by the  
Department of Health and Hospitals, Bureau of Health Services  
Financing and the Office for Citizens with Developmental  
Disabilities, LR 41:2157 (October 2015), amended by the  
Department of Health, Bureau of Health Services Financing and  
the Office for Citizens with Developmental Disabilities, LR 45:

**§16305. Companion Care**

A. - F. ...

1. Companion care is not available to individuals  
receiving the following services:

a. - b. ...

c. community living supports; ~~or~~

d. host home-; or

e. monitored in-home caregiving.

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 for Citizens with Developmental Disabilities, LR 33:2444 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2158 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

**§16307. Day Habilitation Services**

A. - A.3. ...

B. Day habilitation services shall:

1. - 3. ...

4. be furnished on a regularly scheduled basis for one or more days per week;

a. services are based on a ~~one-half day~~ 15 minute unit of service and on time spent at the service site by the participant;

b. ~~the one-half day unit of service requires a minimum of 2.5 hours~~ services shall not exceed 32 units of service on any given day or 160 units in any given week in a plan of care;

c. ~~two one-half day units may be billed if the participant spends a minimum of 5 hours at the~~ any time less than the 15 minute unit of service ~~site is not billable or payable; and~~

d. ~~any time less than 2.5 hours of services is not billable or payable; and~~ no rounding up of hours is allowed.

e. ~~no rounding up of hours is allowed.~~ Repealed.

C. - E.2. ...

3. Day habilitation services cannot be billed or provided during the same hours on the same day as any of the following services:

a. ...

b. professional services, except those direct contacts needed to develop a behavioral management plan or any other type of specialized assessment/plan; ~~or~~

c. respite care services-out of home-;

d. adult day health care; or

e. monitored in-home caregiving.

F. ...

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 33:2445 (November 2007), amended by the

Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2158 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

**§16313. Host Home**

A. - I.1. ...

2. Separate payment will not be made for the following residential service models if the participant is receiving host home services:

a. - b. ...

c. shared living-conversion; ~~or~~

d. companion care; or

e. monitored in-home caregiving.

I.3. - J.2. ...

3. Agencies serving adults must be licensed by the Department of Health ~~and Hospitals~~ as a provider of substitute family care 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 and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2447 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services



Financing and the Office for Citizens with Developmental Disabilities, LR 41:2160 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

**§16319. One Time Transitional Services**

A. One-time transitional services are one-time, set-up services to assist individuals in making the transition from an ~~ICF/ID~~institution to their own home or apartment in the community of their choice.

B. - E. ...

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 33:2449 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2162 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

**§16323. Prevocational Services**

A. Prevocational services are ~~activities designed to assist participants in acquiring and maintaining basic work-related skills necessary to acquire and retain meaningful~~



~~employment. Services should include real and simulated employment tasks to assist in determining their vocational potential. Overall goals of the program include regular community inclusion and development of work skills and habits to improve the participant's employability. Services must be reflective of the participant's POC and focused toward habilitation rather than teaching a specific job skill.~~time limited with employment at the individual's highest level of work in the most integrated community setting, with the job matched to the individual's interests, strengths, priorities, abilities and capabilities, with integrated competitive employment as the optimal outcome. Individuals receiving prevocational services may choose to pursue employment opportunities at any time. Career planning must be a major component of prevocational services.

~~1. Prevocational services should focus on teaching concepts and skills such as:~~

- ~~a. following directions;~~
- ~~b. attending to task;~~
- ~~c. task completion;~~
- ~~d. problem solving; and~~
- ~~e. job safety skills.~~

~~2. The primary focus of prevocational services is the acquisition of employment related skills based on the individual's vocational preferences and goals.~~

~~a. These activities should include formal strategies for teaching the skills and the intended outcome for the individual.~~

~~b. Individualized progress for the activities should be routinely reviewed and evaluated with revisions made as necessary.~~ 1. - 2.b. Repealed.

B. ~~In the event participants~~ Prevocational services are compensated while receiving prevocational services, the compensation must be in accordance with the United States Fair Labor Standards Act of 1985, to be provided in a variety of locations in the community and are not to be limited to a fixed site facility. Activities associated with prevocational services should be focused on preparing the participant for paid employment or a volunteer opportunity in the community. These services are operated through a provider agency that is licensed by the appropriate state licensing agency. Services are furnished one or more hours per day on a regularly scheduled basis for one or more days per week.

~~1. If participants are paid in excess of 50 percent of the minimum wage, the provider must, at a minimum:~~



~~\_\_\_\_\_ a. \_\_\_\_\_ conduct 6-month formal reviews to determine the suitability of this service rather than supported employment services;~~

~~\_\_\_\_\_ b. \_\_\_\_\_ make recommendations to transition the individual to a more appropriate vocational opportunity; and~~

~~\_\_\_\_\_ c. \_\_\_\_\_ provide the support coordinator with documentation of both the productivity time studies and documented reviews of current placement feasibility.1. - 1.c.~~

Repealed.

C. ~~The provider is responsible for all transportation from the agency to all vocational sites related to provision of~~Participants receiving services must have an employment related goal in their plan of care, and the general habilitation activities must be designed to support such employment goals. Prevocational services are designed to create a path to integrated community-based employment for which a participant is compensated at or above minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities.

1. ~~Travel training may be included in determining the number of hours of services provided per day for the period of time specified in the participant's POC.~~Repealed.

D. ~~Service Limits~~ Prevocational services can include assistance in personal care and with activities of daily living. Choice of this service and staff ratio needed to support the participant must be documented on the plan of care.

~~1. Services shall be limited to no more than eight hours per day, five days per week.~~

~~2. Services are based on a one-half day unit of service and time spent at the service site by the participant.~~

~~a. The one-half day unit of service requires a minimum of 2.5 hours at the service site by the participant;~~

~~b. two one-half day units may be billed in one day if the participant spends a minimum of 5 hours at the service site;~~

~~c. any time less than 2.5 hours of service is not billable or payable; and~~

~~d. no rounding up of hours is allowed.~~

~~3. Participants may receive more than one vocational/habilitative service per day as long as the billing criteria are followed for each service and the requirements for the minimum time spent on site are adhered to.~~ 1. - 3. Repealed.

E. ~~Service Exclusions~~ All transportation costs are included in the reimbursement for prevocational services. The participant must be present to receive this service. If a participant needs transportation, the provider must physically



provide, arrange, or pay for appropriate transport to and from a central location that is convenient for the participant and agreed upon by the team. The participant's transportation needs and this central location shall be documented in the plan of care.

~~1. Prevocational services are not available to participants who are eligible to participate in programs funded under the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act.~~

~~2. Multiple vocational/habilitative services cannot be provided or billed for during the same hours on the same day as the following services:~~

~~a. community living supports;~~

~~b. professional services, except those direct contacts needed to develop a behavioral management plan or other type of specialized assessment/plan; or~~

~~c. respite care services out of home.~~

~~3. Transportation to and from the service site is only payable when a vocational/habilitative service is provided on the same day.~~

~~4. Time spent in traveling to and from the prevocational program site shall not be included in the calculation of the total number of service hours provided per day.~~

~~\_\_\_\_\_ a. During travel training, providers must not also bill for the transportation component as this is included in the rate for the number of service hours provided.~~

~~\_\_\_\_\_ 5. Transportation community access shall not be used to transport ROW participants to any prevocational services.~~  
1. - 5. Repealed.

F. ~~Provider Qualifications. Providers must have a current, valid license as an adult day care center.~~ Service Limitations

1. Services shall not exceed 8,320 units of service in a plan of care.

2. Prevocational services are not available to participants who are eligible to participate in programs funded under the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act.

3. Multiple vocational/habilitative services cannot be provided or billed for during the same hours on the same day as the following services:

a. community living supports;

b. professional services, except those direct contacts needed to develop a behavioral management plan or other type of specialized assessment/plan;

c. respite care services-out of home;

d. adult day healthcare; or

e. monitored-in-home caregiving.

4. Transportation to and from the service site is only payable when a vocational/habilitative service is provided on the same day.

a. Time spent in traveling to and from the prevocational program site shall not be included in the calculation of the total number of service hours provided per day.

b. During travel training, providers must not also bill for the transportation component as this is included in the rate for the number of service hours provided.

c. Transportation-community access shall not be used to transport ROW participants to any prevocational services

G. Restrictions.

1. Participants receiving prevocational services may also receive day habilitation or individualized supported employment services, but these services cannot be provided during the same time period of the day and cannot total more than five hours combined in the same service day. Group supported employment services cannot be provided on the same day, but can be utilized on a different service day.

H. There must be documentation in the participant's file that this service is not available from programs funded under section 110 of the Rehabilitation Act of 1973 or sections 602



(16) or (17) of the Individuals with Disabilities Education Act [230 U.S.C. 1401 (16 and 71)] and those covered under the state plan.

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 33:2450 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2162 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45: **§16327. Respite Care Services-Out of Home**

A. - C.1. ...

2. Respite care services-out of home may not be billed for participants receiving the following services:

- a. ...
- b. companion care; ~~or~~
- c. host home; or
- d. monitored in-home caregiving.

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 and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2451 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2164 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

**§16329. Shared Living Services**

A. - D.5. ...

6. The following services are not available to participants receiving shared living services:

a. - c. ...

d. host home; ~~or~~

e. personal emergency response system-; or

f. monitored in-home caregiving.

E. ...

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 33:2452 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental

Disabilities, LR 41:2164 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

**§16335. Supported Employment**

A. Supported employment ~~provides assistance in an integrated work setting to assist in the achievement and attainment of work related skills and includes on-going support to maintain~~ services consists of intensive, ongoing supports and services necessary for a participant to achieve the desired outcome of employment in a community setting in the state of Louisiana where a majority of the persons employed are without disabilities. Participants utilizing these services may need long-term supports for the life of their employment due the nature of their disability, and natural supports would not meet this need.

B. Supported employment services ~~include~~ provide supports in the following areas:

1. individual ~~placement which is a supported employment placement strategy in which an~~ job, group employment ~~specialist (job coach) places a person into competitive employment, provides training and support and then gradually reduces time and assistance at the worksite~~ or self-employment;

2. ~~services that assist a participant to develop and operate a micro-enterprise~~ job assessment, discovery and development; and

~~a. This service consists of:~~

~~i. assisting the participant to identify potential business opportunities;~~

~~ii. assistance in the development of a business plan, including potential sources of business financing and other assistance in developing and launching a business;~~

~~iii. identification of the supports that are necessary in order for the participant to operate the business; and~~

~~iv. ongoing assistance, counseling and guidance once the business has been launched.~~ a. - a.iv.

Repealed.

3. ~~enclave services which is an employment situation in competitive employment in which a group of eight or fewer workers with disabilities are working at a particular work setting. The workers with disabilities may be disbursed throughout the company and among workers without disabilities or congregated as a group in one part of the business~~ initial job support and job retention, including assistance in personal care with activities of daily living in the supported employment setting and follow-along+.



~~4. mobile work crews which is a group of eight or fewer workers with disabilities who perform work in a variety of locations under the supervision of a permanent employment specialist (job coach/supervisor); and~~

~~5. all transportation from the agency to all work sites related to provision of the service. The provider is responsible for furnishing the transportation.~~4. - 5. Repealed.

C. ~~Service Limits~~When supported employment services are provided at a work site where a majority of the persons employed are without disabilities, payment is only made for the adaptations, supervision and training required by participants receiving the service as a result of their disabilities. It does not include payment for the supervisory activities rendered as a normal part of the business setting.

~~1. The required minimum number of service hours per day per participant is as follows for:~~

~~a. individual placement services, the minimum is one hour;~~

~~b. services that assist a participant to develop and operate a micro-enterprise, the minimum is one hour;~~

~~c. an enclave, the minimum is 2.5 hours; and~~

~~d. a mobile work crew, the minimum is 2.5 hours.~~



~~2. Two half-day units may be billed if the participant spends a minimum of five hours at the service site.~~

~~3. Participants may receive more than one vocational or habilitative service per day as long as the service and billing requirements for each service are met.~~

~~4. Transportation to and from the service site is offered and billable as a component of the support employment service; however, transportation is payable only when a supported employment service is provided on the same day.~~ 1. - 4.

Repealed.

D. ~~Service Exclusions~~ Transportation is included in supported employment services, but whenever possible, family, neighbors, friends, coworkers or community resources that can provide needed transportation without charge should be utilized.

~~1. Payment will only be made for the adaptations, supervision and training required by individuals receiving waiver services, and will not include payment for the supervisory activities rendered as a normal part of the business setting.~~

~~2. Any time less than one hour for individual placement and micro-enterprise is not billable or payable.~~

~~3. Supported employment services cannot be billed for the same time as any of the following services:~~

~~a. community living supports;~~

~~\_\_\_\_\_ b. professional services except direct contacts needed to develop a behavioral management plan; or~~

~~\_\_\_\_\_ c. respite care services out of home.~~

~~\_\_\_\_\_ 4. Any time less than 2.5 hours for enclaves and mobile crews is not billable or payable.~~

~~\_\_\_\_\_ 5. Time spent in traveling to and from the prevocational program site shall not be included in the calculation of the total number of service hours provided per day.~~

~~\_\_\_\_\_ a. Travel training for the purpose of teaching the participant how to use transportation services may be included in determining the total service numbers hours provided per day, but only for the period of time specified in the POC.~~

~~\_\_\_\_\_ 6. The following incentive payments, subsidies or unrelated vocational training expenses are excluded from coverage in supported employment services:~~

~~\_\_\_\_\_ a. incentive payments made to an employer to encourage or subsidize the employer's participation in a supported employment program;~~

~~\_\_\_\_\_ b. payments that are passed through to users of supported employment programs; or~~

~~\_\_\_\_\_ c. payments for vocational training that is not directly related to an individual's supported employment program.~~



~~7. Services are not available to individuals who are eligible to participate in programs funded under the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act.~~

~~8. No rounding up of hours is allowed.~~1. - 8.

Repealed.

~~E. Provider Qualifications. In order to enroll in the Medicaid Program, providers must have a compliance certificate from the Louisiana Rehabilitation Services as a community rehabilitation program or a current, valid license as an adult day care center.~~These services are also available to those participants who are self-employed. Funds for self-employment may not be used to defray any expenses associated with setting up or operating a business.

F. Supported employment services may be furnished by a coworker or other job-site personnel under the following circumstances:

1. the services furnished are not part of the normal duties of the coworker or other job-site personnel; and

2. these individuals meet the pertinent qualifications for the providers of service.

G. Service Limits. Participants may receive more than one vocational or habilitative service per day as long as the service and billing requirements for each service are met.

1. Services for individual/micro-enterprise job assessment, discovery and development in individual jobs and self-employment shall not exceed 2,880 units of service in a plan of care year.

2. Services for group job assessment, discovery and development in group employment shall not exceed 480 units of service in a plan of care year.

3. Services for initial job support, job retention and follow-along for individual/micro-enterprise shall not exceed 1280 quarter hour units of service in a plan of care year.

4. Services for initial job support, job retention and follow-along in group employment shall not exceed 8,320 quarter hour units of service in a plan of care year.

H. Service Exclusions/Restrictions. Participants receiving individual supported employment services may also receive prevocational or day habilitation services. However, these services cannot be provided during the same service hours and cannot total more than five hours of services in the same day. Participants receiving group supported employment services may also receive prevocational or day habilitation services; however, these services cannot be provided in the same service day.



1. Payment will only be made for the adaptations, supervision and training required by individuals receiving waiver services, and will not include payment for the supervisory activities rendered as a normal part of the business setting.

2. Any time less than one hour for individual placement and micro-enterprise is not billable or payable.

3. Supported employment services cannot be billed for the same time as any of the following services:

a. community living supports;

b. professional services except direct contacts needed to develop a behavioral management plan; or

c. respite care services-out of home,;

d. adult day health care; or

e. monitored in-home caregiving.

4. Any time less than fifteen minutes for enclaves and mobile crews is not billable or payable.

5. Time spent in traveling to and from the prevocational program site shall not be included in the calculation of the total number of service hours provided per day.

a. Travel training for the purpose of teaching the participant how to use transportation services may be

included in determining the total service numbers hours provided per day, but only for the period of time specified in the POC.

6. The following incentive payments, subsidies or unrelated vocational training expenses are excluded from coverage in supported employment services:

a. incentive payments made to an employer to encourage or subsidize the employer's participation in a supported employment program;

b. payments that are passed through to users of supported employment programs; or

c. payments for vocational training that is not directly related to an individual's supported employment program.

7. There must be documentation in the participant's file that these services are not available from programs funded under the Rehabilitation Act of 1973 or sections 602 (16) or (17) of the Individuals with Disabilities Education Act [230 U.S.C. 1401 (16 and 17)] and those covered under the State Plan.

8. No rounding up of service units is allowed.

I. Provider Qualifications. In order to enroll in the Medicaid Program, providers must have a compliance certificate from the Louisiana Rehabilitation Services as a community rehabilitation program or a current, valid license as an adult day care center.

F. Choice of this service and staff ratio needed to support the participant must be documented on the plan of care.

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 33:2453 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2166 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

**§16337. Transportation-Community Access**

A. - C.1. ...

2. Separate payment will not be made for transportation-community access and the following services:

- a. shared living services; ~~or~~
- b. community living services; ~~i~~
- c. companion care;
- d. adult day health care; or
- e. monitored in-home caregiving.

C.3. - E. ...

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 33:2454 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2166 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

**§16343. Adult Day Health Care Services**

A. ...

B. ADHC services include those core service requirements identified in the ADHC licensing standards (LAC 48.I.4243), in addition to:

1. ~~transportation between the participant's place of residence and the ADHC, in accordance with licensing standards~~medical care management;

2. ~~assistance with activities of daily living~~transportation between the participant's place of residence and the ADHC (if the participant is accompanied by the ADHC staff);

3. ~~health and nutrition counseling~~assistance with activities of daily living;

4. ~~an individualized exercise program~~health and nutrition counseling;

5. an individualized ~~goal-directed~~  
~~recreation~~exercise program;
6. ~~health education classes~~an individualized goal-  
directed recreation program;
7. ~~individualized health/nursing services~~health  
education; and
8. ~~meals.~~individualized health/nursing services; and
9. meals.

B.9.a. - E. ...

F. The following services are not available to AFDC  
recipients:

1. respite care services-out of home;
2. shared living;
3. companion care, or
4. monitored in-home caregiving.

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 for Citizens with Developmental Disabilities, LR 42:62  
(January 2016), amended by the Department of Health, Bureau of  
Health Services Financing and the Office for Citizens with  
Developmental Disabilities, LR 45:

**\$16345. Monitored In-Home Caregiving Services**

A. Monitored in-home caregiving (MIHC) services are provided by a principal caregiver to a participant who lives in a private unlicensed residence. The principal caregiver shall be contracted by the licensed HCBS provider having a MIHC service module. The principal caregiver shall reside with the participant. Professional staff employed by the HCBS provider shall provide oversight, support and monitoring of the principal caregiver, service delivery, and participant outcomes through on-site visits, training, and daily, web-based electronic information exchange.

B. The principal caregiver is responsible for supporting the participant to maximize the highest level of independence possible by providing necessary care and supports that may include:

1. supervision or assistance in performing activities of daily living;

2. supervision or assistance in performing instrumental activities of daily living;

3. protective supervision provided solely to assure the health and welfare of a participant;

4. supervision or assistance with health related tasks (any health related procedures governed under the Nurse Practice Act) in accordance with applicable laws governing the delegation of medical tasks/medication administration;



5. supervision or assistance while escorting/  
accompanying the individual outside of the home to perform  
tasks, including instrumental activities of daily living, health  
maintenance or other needs as identified in the plan of care and  
to provide the same supervision or assistance as would be  
rendered in the home; and

6. extension of therapy services to maximize  
independence when the caregiver has been instructed in the  
performance of the activities by a licensed therapist or  
registered nurse.

C. Unless the individual is also the spouse of the  
participant, the following individuals are prohibited from being  
paid as a monitored in-home caregiving principal caregiver:

1. the participant's curator;
2. the participant's tutor;
3. the participant's legal guardian;
4. the participant's responsible representative; or
5. the person to whom the participant has given  
representative and mandate authority (also known as power of  
attorney).

D. Participants electing monitored in-home caregiving  
services shall not receive the following Residential Options  
waiver services during the period of time that the participant  
is receiving monitored in-home caregiving services:

1. community living supports;
2. companion care;
3. host home;
4. shared living (conversion or non-conversion); or
5. adult day health care services.

E. Monitored in-home caregiving providers must be licensed HCBS providers with a monitored in-home caregiving module who employ professional staff, including a registered nurse and a care manager, to support principal caregivers to perform the direct care activities performed in the home. The agency provider must assess and approve the home in which services will be provided, and shall enter into contractual agreements with caregivers who the agency has approved and trained. The agency provider will pay per diem stipends to caregivers.

F. The MIHC provider must use secure, web-based information collection from principal caregivers for the purposes of monitoring participant health and caregiver performance. All protected health information must be transferred, stored, and otherwise utilized in compliance with applicable federal and state privacy laws. Providers must sign, maintain on file, and comply with the LDH HIPAA business associate addendum.

G. The department shall reimburse for monitored in-home caregiving services based upon a two-tiered model which is designed to address the participant's ROW acuity level.

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 45:

**Chapter 169. Reimbursement**

**§16901. Unit of Reimbursement**

A. Reimbursement for the following services shall be a prospective flat rate for each approved unit of service provided to the waiver participant. One quarter hour (15 minutes) is the standard unit of service and reimbursement shall not be made for less than one quarter hour of service. This covers both the service provision and administrative costs for these services:

1. - 4.b. ...
5. professional services furnished by a/an:
  - a. - d. ...
  - e. social worker; ~~or~~
  - f. ...
6. supported employment;
  - a. individual placement; ~~and~~
  - b. micro-enterprise; ~~and~~



7. adult day health care-;

8. pre-vocational service; and

9. day habilitation.

\* \* \*

B. - B.2. ...

C. The following services are reimbursed at a per diem rate:

1. ...

2. companion ~~cares~~ living care services; and

3. shared living services;

a. ~~Per~~ per diem rates are established based on the number of individuals sharing the living service module for both shared living non-conversion and shared living conversion services-; and

4. monitored in-home caregiving services.

a. The per diem rate for monitored in-home caregiving services does not include payment for room and board, and federal financial participation is not claimed for room and board.

D. ~~The following services are reimbursed at a per one-half day unit of service based on a minimum of 2.5 hours spent on-site by the participant.~~ The reimbursement for transportation services is a flat fee based on a capitated rate.

~~1. day habilitation;~~

- ~~2. pre-vocational; and~~
- ~~3. supported employment;~~
- ~~a. mobile crew; and~~
- ~~b. enclave.~~ 1. - 3.b. Repealed.

E. ~~The reimbursement for transportation services is a flat fee based on a capitated rate~~ Nursing services are reimbursed at either an hourly or per visit rate for the allowable procedure codes.

F. ~~Nursing services are~~ Installation of a personal emergency response system (PERS) is reimbursed at either an hourly or per visit a one-time fixed rate for the allowable procedure codes and maintenance of the PERS is reimbursed at a monthly rate.

G. ~~Installation of a personal emergency response system (PERS) is~~ Transition expenses from an ICF/ID or nursing facility to a community living setting are reimbursed at a one-time fixed rate and maintenance of the PERS is reimbursed at a monthly rate the cost of the service(s) up to a lifetime maximum rate of \$3,000.

H. ~~Transition expenses from an ICF/ID or nursing facility to a community living setting~~ Dental services are reimbursed at the cost of the service(s) up to a lifetime maximum rate of ~~\$3,000~~ Medicaid fee-for-service rate.

I. ~~Dental services are~~ The assessment performed by the monitored in-home caregiving provider shall be reimbursed at the Medicaid fee-for-service authorized rate or approved amount of the assessment when the service has been prior authorized by the plan of care.

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 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 39:1049 (April 2013), LR 41:2168, 2170 (October 2015), LR 42:63 (January 2016), 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 43:2530 (December 2017), LR 45:

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 as it will allow children currently served in ROW to continue access to those services, will allow individuals to transition to ROW without service interruption, allow participants to access the same amounts and duration of service as other waiver participants, and allow individuals to access additional supports which may prevent institution.

#### **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 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 improve access to services.

#### **Small Business Statement**

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.

#### **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.

#### **Public Comments**

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 30, 2019.

#### **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, 2019. 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 30, 2019 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, 2019. 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.

Rebekah E. Gee MD, MPH

Secretary



John Bel Edwards  
GOVERNOR



Rebekah E. Gee MD, MPH  
SECRETARY

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

November 7, 2019

Susan M. Gregg, Senior Director  
Seniorlink/Caregiver Homes of Louisiana  
7884 Office Park Blvd.  
Suite 120  
Baton Rouge, LA 70809

Dear Ms. Gregg:

**RE: Notice of Intent for Home and Community-Based Services Waivers –  
Residential Options Waiver**

This letter is in response to your correspondence regarding the Home and Community-Based Services Waivers – Residential Options Waiver (ROW) Notice of Intent published in the September 20, 2019 edition of the *Louisiana Register*.

Thank you for taking the time to provide comments relative to the proposed Rule to amend the provisions governing the ROW in order to: restore the minimum age for access to the ROW and delete the grandfather clause for participants under age 21; add the monitored in-home caregiving service; change units for specific services to a 15 minute rate; and, clarify and align provisions of the ROW with other Office for Citizens with Developmental Disabilities (OCDD) home and community-based services waivers.

Staff of the Department's Office for Citizens with Developmental Disabilities have reviewed your concerns and recommendations for technical revisions to the proposed ROW provisions. Below are OCDD's responses to the following concerns noted in your correspondence.

**Covered Services, Chapter 163**

***We recommend removing this limitation to permit day habilitation, pre-vocational and supported employment services to be allowed in conjunction with Monitored In-Home Caregiving.***

OCDD appreciates Seniorlink/Caregiver Homes' comments and is open to the possibility of removing the limitation which will permit MIHC participants access to Pre-Vocational and Supported Employment supports as identified in their POC and in accordance with other units of service limitations, in the future. Employment based services differ from MIHC in as much as MIHC is focused on ADL/IDL support and supervision provided by approved primary caregiver in the home and to and from appointments in the community.

Employment based services are utilized specifically to assist an individual train for, secure and maintain competitive community based individual or group employment. Day Habilitation services on the other hand presents a challenge because core components of the service are duplicative of MIHC. Both provider support to acquiring, maintaining or improving activities of daily living and for that reason a participant may only access one or the other of the two services.

**16345.C.3 Monitored In-Home Caregiving Services:**

***We recommend removing this exclusion to allow individuals receiving care from legal guardians to receive MIHC services.***

While OCDD empathizes with the unique circumstances presented to those caring for family members for whom they may also have legal responsibility, the exclusion will remain in place. Legally responsible individuals and an authorized representative for the waiver are excluded paid caregivers in the waiver. To ensure consistency across all Louisiana HCBS waivers where MIHC is accessible the following exclusion is applied in each population:

Unless the individual is also the spouse of the participant, the following individuals are prohibited from being paid as a monitored in-home caregiving principal caregiver:

1. the participant's curator;
  2. the participant's tutor;
  3. the participant's legal guardian;
  4. the participant's responsible representative; or
  5. the person to whom the participant has given representative and mandate authority (also known as power of attorney).
- I would like to thank you for taking the time to provide comments in response to this proposed Rule and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

We appreciate your willingness to provide comments relative to this proposed Rule and hope that you will continue to work with us as we strive to improve health outcomes for Louisiana citizens. Should you have any questions regarding Medicaid administrative rulemaking activity, you may contact Veronica Dent, Medicaid Program Manager, at 225-342-3238 or by email to [Veronica.Dent@la.gov](mailto:Veronica.Dent@la.gov).

Sincerely,



Len Steele  
Medicaid Director

JS/KHB/VYD

c: Jeannathan Anderson, ROW Program Manager  
Allen Enger, LDH Rulemaking Coordinator  
Jennifer Katzman, Medicaid Deputy Director

## SUMMARY OF WRITTEN COMMENTS

**Proposed Rule:** Home and Community-Based Services Waivers – Residential Options Waiver  
**Public Hearing Date:** N/A  
**Docket No. :** N/A  
**Conducted By:** N/A

[illegible]





**State of Louisiana**  
Louisiana Department of Health  
Office of the Secretary

November 7, 2019

**Via Statutorily Prescribed Email**

**To:** The Honorable Fred H. Mills, Jr. Chairman, Senate Health & Welfare Committee  
The Honorable Frank A. Hoffmann, Chairman, House Health & Welfare Committee

**From:** Rebekah E. Gee, MD, MPH  
Secretary

*By Cindy River for*

**Re:** Second Report on Proposed Amendments to LAC 50.V.Chapters 5 and 9  
Inpatient Hospital Services non-Rural, Non-State Hospitals, Reimbursement  
Rate Adjustment

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Inpatient Hospital Services non-Rural, Non-State Hospitals, Reimbursement Rate Adjustment LAC 50.V.Chapters 5 and 9 rule amendment.

A Notice of Intent on the proposed amendments was published in the September 20, 2019 issue of the *Louisiana Register* (LR 45:1265). 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 September 20, 2019, Notice of Intent when it is published as a final rule in the December 20, 2019, issue of the *Louisiana Register*.

Should you have any questions or need additional information, please contact Jen Katzman, Medicaid Deputy Director, at [Jennifer.Katzman@la.gov](mailto:Jennifer.Katzman@la.gov).

Cc: Jen Katzman, Deputy Medicaid Director, Department of Health  
Veronica Dent, Medicaid Program Manager, Department of Health  
Anita Dupuy, Legislative Liaison, Department of Health  
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

## **NOTICE OF INTENT**

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

#### **Inpatient Hospital Services Non-Rural, Non-State Hospitals Reimbursement Rate Adjustment (LAC 50:V.Chapters 5 and 9)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:V.Chapters 5 and 9 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.

House Concurrent Resolution (HCR) 5 of the 2019 Regular Session of the Louisiana Legislature required the Department of Health, Bureau of Health Services Financing to adjust the reimbursement rates for inpatient hospital services. In compliance with the requirements of HCR 5, the department proposes to amend the provisions governing the reimbursement methodology for inpatient hospital services in order to adjust the reimbursement rates.

## **Title 50**

### **PUBLIC HEALTH-MEDICAL ASSISTANCE Part V. Hospitals Subpart 1. Inpatient Hospital Services**

#### **Chapter 5. State Hospitals**

#### **Subchapter B. Reimbursement Methodology**



**§551. Acute Care Hospitals**

A. - F.2. ...

G. Effective for dates of service on or after January 1, 2020, the inpatient per diem rate paid to state-owned acute care hospitals, excluding inpatient psychiatric services, shall be calculated based on allowable costs per the latest filed cost report. Final reimbursement determined based on the allowable costs per the finalized Medicare/Medicaid cost report.

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 38:1241 (May 2012), amended LR 38:2772 (November 2012), LR 40:312 (February 2014), LR 40:1941 (October 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

**§553. Inpatient Psychiatric Services for State Owned Hospitals**

A. Effective for dates of service on or after January 1, 2020, the prospective per diem rate paid to state owned free-standing psychiatric hospitals, and distinct part psychiatric units within state owned acute care hospitals, shall be increased by indexing to 32 percent of the small rural hospital prospective per diem rate in effect on January 1, 2019.

1. Psychiatric hospitals and units whose per diem rates as of January 1, 2019, excluding the graduate medical education portion of the per diem, are greater than 32 percent of the January 1, 2019 small rural hospital rate shall not be increased.

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 45:

**Chapter 9. Non-Rural, Non-State Hospitals**

**Subchapter B. Reimbursement Methodology**

**§953. Acute Care Hospitals**

A. - V.2. ...

W. Effective for dates of service on or after January 1, 2020, the inpatient per diem rate paid to acute care hospitals shall be increased by 3.2 percent of the per diem rate on file as of December 31, 2019.

1. Small rural hospitals as defined in R.S. 40:1300 and public-private partnership hospitals as defined in LAC 50:V.1701-1703 shall be exempt from this rate increase.

2. Carve-out specialty units, nursery boarder, and well-baby services are included in these rate increases.

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 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895, 1896 (September 2009), repromulgated LR 35:2182 (October 2009), amended LR 36:1552 (July 2010), LR 36:2561 (November 2010), LR 37:2161 (July 2011), LR 39:3095 (November 2013), LR 39:3297 (December 2013), LR 40:312 (February 2014), repromulgated LR 40:1939, 1940 (October 2014), LR 41:133 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:963 (May 2017), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1389 (July 2017), repromulgated LR 43:1757 (September 2017), amended LR 43:2533 (December 2017), repromulgated LR 44:1445 (August 2018), LR 45:

**§955. Long-Term Hospitals**

A. - L. ...

M. Effective for dates of service on or after January 1, 2020, the inpatient per diem rate paid to long-term acute hospitals shall be increased by indexing to 45 percent of the small rural hospital prospective per diem rate in effect on January 1, 2019. Long-term hospitals whose per diem rates as of January 1, 2019, excluding the graduate medical education portion of the per diem, are greater than 45 percent of the



January 1, 2019 small rural hospital rate shall not be increased.

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: 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1554 (July 2010), LR 36:2562 (November 2010), LR 37:2162 (July 2011), LR 40:312 (February 2014), repromulgated LR 40:1940 (October 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:964 (May 2017), LR 43:2533 (December 2017), repromulgated LR 44:1445 (August 2018), LR 45:

**§959. Inpatient Psychiatric Hospital Services**

A. - N.2. ...

O. Effective for dates of service on or after January 1, 2020, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals, and distinct part psychiatric units within non-rural, non-state acute care hospitals, shall be increased by indexing to 32 percent of the small rural hospital prospective per diem rate in effect on January 1, 2019.

1. Psychiatric hospitals and units whose per diem rates as of January 1, 2019, excluding the graduate medical education portion of the per diem, are greater than 32 percent of the January 1, 2019 small rural hospital rate shall not be increased.

2. Inpatient hospital psychiatric services provided under a public-private partnership as defined in §959.L of this Chapter, LAC 50:V.1701 and LAC 50:V.2901 shall be exempt from this rate increase.

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 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1554 (July 2010), LR 36:2562 (November 2010), LR 37:2162 (July 2011), LR 39:94 (January 2013), LR 39:323 (February 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 43:964 (May 2017), LR 43:2533 (December 2017), amended LR 44:1446 (August 2018), LR 45:

**§961. Inpatient Rehabilitation Hospital Services**

A. ...

\* \* \*

B. - B.2. ...

3. Effective for dates of service on or after January 1, 2020, the prospective per diem rate paid to non-rural, non-state free-standing rehabilitation hospitals shall be indexed to 37 percent of the small rural hospital prospective per diem rate in effect on January 1, 2019.

4. Rehabilitation hospitals whose per diem rates as of January 1, 2019, excluding the graduate medical education portion of the per diem, are greater than 37 percent of the January 1, 2019 small rural hospital rate shall not be increased.

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 43:2533 (December 2017), amended LR 44:1446 (August 2018), LR 45:

**§967. Children's Specialty Hospitals**

A. - M. ...

N. Effective for dates of service on or after January 1, 2020, the inpatient per diem rates paid to children's specialty hospitals for acute, neonatal intensive care units, pediatric intensive care units and burn units' services shall be increased by 3.2 percent of the per diem rate on file as of December 31, 2019.



O. Effective for dates of service on or after January 1, 2020, the prospective per diem rate paid to distinct part psychiatric units within children's specialty hospitals shall be increased by indexing to 32 percent of the small rural hospital prospective per diem rate in effect on January 1, 2019

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 36:2562 (November 2010), amended LR 37:2162, 2162 (July 2011), LR 38:2773 (November 2012), LR 39:3097 (November 2013), LR 40:312 (February 2014), repromulgated LR 40:1940 (October 2014), amended LR 40:1941 (October 2014), LR 42:275 (February 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 43:964 (May 2017), LR 45:

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 Statement**

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 increases payments to providers.

#### **Public Comments**

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 30, 2019.

#### **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, 2019. 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 30, 2019 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, 2019. 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.

Rebekah E. Gee MD, MPH

Secretary



**State of Louisiana**  
Louisiana Department of Health  
Office of the Secretary

November 7, 2019

**Via Statutorily Prescribed Email**

**To:** The Honorable Fred H. Mills, Jr. Chairman, Senate Health & Welfare Committee  
The Honorable Frank A. Hoffmann, Chairman, House Health & Welfare Committee

**From:** Rebekah E. Gee, MD, MPH  
Secretary

*By Cindy Rivers for*

**Re:** Second Report on Proposed Amendments to LAC 50.I.3509 Managed Care for Physical and Behavioral Health Reimbursement Methodology Kick and Lump Sum Payments

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Managed Care for Physical and Behavioral Health Reimbursement Methodology Kick and Lump Sum Payments LAC 50.I.3509 rule amendment.

A Notice of Intent on the proposed amendments was published in the September 20, 2019 issue of the *Louisiana Register* (LR 45:1398). 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 September 20, 2019, Notice of Intent when it is published as a final rule in the December 20, 2019, issue of the *Louisiana Register*.

Should you have any questions or need additional information, please contact Jen Katzman, Medicaid Deputy Director, at [Jennifer.Katzman@la.gov](mailto:Jennifer.Katzman@la.gov).

Cc: Jen Katzman, Deputy Medicaid Director, Department of Health  
Veronica Dent, Medicaid Program Manager, Department of Health  
Anita Dupuy, Legislative Liaison, Department of Health  
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

## **NOTICE OF INTENT**

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

#### **Managed Care for Physical and Behavioral Health Reimbursement Methodology Kick and Lump Sum Payments (LAC 50:I.3509)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:I.3509 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 a one-time supplemental lump sum payment, hereafter referred to as a "kick payment", to managed care organizations (MCOs) participating in the Healthy Louisiana Program to cover the cost of prenatal care, deliveries and postpartum care for MCO members. The department has now determined that it is necessary to amend the provisions governing MCO reimbursement to allow for expansion of the current kick payment methodology to include reimbursements for specific care events, services, and treatments in addition to obstetrical deliveries and for reimbursement of the MCO monthly capitation and kick payments in the aggregate on a lump sum basis when administratively necessary.



## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part I. Administration

#### Subpart 3. Managed Care for Physical and Behavioral Health

#### Chapter 35. Managed Care Organization Participation Criteria

#### §3509. Reimbursement Methodology

##### A. ...

1. The department will establish monthly capitation rates within an actuarially sound rate range certified by its actuaries. Consistent with all applicable federal rules and regulations, the rate range will initially be developed using fee-for-service claims data, Bayou Health shared savings claims data, Bayou Health managed care organization encounter data, Louisiana Behavioral Health Partnership (LBHP) encounter data, financial data reported by Bayou Health ~~plans~~ managed care organizations and the LBHP statewide management organization, supplemental ad hoc data, and actuarial analyses with appropriate adjustments.

2. As the Bayou Health managed care ~~Program~~ program matures and fee-for-service, shared savings and LBHP data are no longer available, there will be increasing reliance on Bayou Health managed care organization encounter data and/or financial data to set future rates, subject to comparable adjustments.

3. - 4.d. ...

5. ~~An MCO shall be reimbursed a one-time~~

~~supplemental lump sum payment, hereafter referred to as a "maternity kick payment", for each obstetrical delivery in the amount determined by the department's actuary.~~Kick Payments.  
MCOs may be reimbursed a one-time supplemental lump sum payment, hereafter referred to as a "kick payment", for the provision of certain services that meet specific conditions, in an amount determined by the department's actuaries.

a. The ~~maternity~~ kick payment is intended to cover the cost of ~~prenatal care, the delivery event, and postpartum~~ a specific care event or treatment. Payment will be ~~paid~~ made to the MCO upon submission of satisfactory evidence of the ~~occurrence of a delivery event or treatment~~.

b. Only one ~~maternity~~ kick payment will be made per ~~delivery event~~ or treatment.

c. ~~The maternity kick payment will be paid for both live and still births. A maternity kick payment will not be reimbursed for spontaneous or induced abortions.~~Repealed.

6. ...

7. The department, or its fiscal intermediary, may reimburse an MCO's monthly capitation payments or kick payments in the aggregate on a lump sum basis when administratively necessary.

B. - M.1. ...

2. If three attempts to contract with the provider

prior to the delivery of the medically necessary service have not been documented, the ~~CNN-PMCO~~ shall reimburse the provider the published Medicaid fee-for-service rate in effect on the date of service.

M.3. - N.2.a. ...

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 37:1587 (June 2011), amended LR 39:92 (January 2013), LR 41:937 (May 2015), LR 41:2367 (November 2015), LR 42:755 (May 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 30, 2019.

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, 2019. 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 30, 2019 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, 2019. 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.

Rebekah E. Gee MD, MPH

Secretary



**State of Louisiana**  
Louisiana Department of Health  
Office of the Secretary

November 7, 2019

**Via Statutorily Prescribed Email**

**To:** The Honorable Fred H. Mills, Jr. Chairman, Senate Health & Welfare Committee  
The Honorable Frank A. Hoffmann, Chairman, House Health & Welfare Committee

**From:** Rebekah E. Gee, MD, MPH  
Secretary

*By Cindy Rives for*

**Re:** Second Report on Proposed Amendments to LAC 50.III.10703 and 10705  
Medicaid Eligibility Medicare Savings Programs

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 Medicare Savings Programs LAC 50.III.10703 and 10705 rule amendment.

A Notice of Intent on the proposed amendments was published in the September 20, 2019 issue of the *Louisiana Register* (LR 45:1267). 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 September 20, 2019, Notice of Intent when it is published as a final rule in the December 20, 2019, issue of the *Louisiana Register*.

LAC 50.III.10703 and 10705

November 7, 2019

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Should you have any questions or need additional information, please contact Jen Katzman, Medicaid Deputy Director, at [Jennifer.Katzman@la.gov](mailto:Jennifer.Katzman@la.gov).

Cc: Jen Katzman, Deputy Medicaid Director, Department of Health  
Veronica Dent, Medicaid Program Manager, Department of Health  
Anita Dupuy, Legislative Liaison, Department of Health  
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register



## **NOTICE OF INTENT**

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

#### **Medicaid Eligibility Medicare Savings Programs (LAC 50:III.10703 and 10705)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:III.10703 and \$10705 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 Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing currently utilizes the income and asset methodologies of the Supplemental Security Income (SSI) Program to determine Medicaid eligibility of aged, blind and disabled individuals applying for coverage under the Medicare Savings Programs (MSP). Under Section 1902(r)(2) of the Social Security Act, states are allowed to use less restrictive income and asset methodologies in determining eligibility for most Medicaid eligibility groups than are used by the cash assistance program. The department proposes to amend the provisions governing financial eligibility in the Medical Assistance Program in order to disregard all resources of aged, blind and disabled individuals in all MSP eligibility determinations.

TITLE 50

PUBLIC HEALTH-MEDICAL ASSISTANCE  
Part III. Eligibility  
Subpart 5. Financial Eligibility

Chapter 107. Resources

§10703. General Provisions

A. - C.1.b. ...

~~2. Resource Assessment. The assets test for full Low Income Subsidy (LIS) eligibility is set at three times the SSI asset standard, indexed annually by the increase in the consumer price index.~~

~~a. Effective January 1, 2010, the asset limit for all Medicare Savings Programs will be the same as the asset limit for Medicare's Part D full benefit LIS.~~ 2. - 2.a. 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 36:2867 (December 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

§10705. Resource Disregards

A. - B.1. ...

C. ~~Effective January 1, 2010, the following assets~~ All resources shall be disregarded in eligibility determinations for all Medicare Savings Programs~~+~~.

~~1. all life insurance, regardless of cash surrender value; and~~

~~2. all vehicles, regardless of value. 1. - 2.~~

Repealed.

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 and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:1899 (September 2009), amended LR 36:2867 (December 2010), LR 41:949 (May 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 30, 2019.

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, 2019. 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 30, 2019 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, 2019. 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.

Rebekah E. Gee MD, MPH

Secretary



**State of Louisiana**  
Louisiana Department of Health  
Office of the Secretary

November 7, 2019

**Via Statutorily Prescribed Email**

**To:** The Honorable Fred H. Mills, Jr. Chairman, Senate Health & Welfare Committee  
The Honorable Frank A. Hoffmann, Chairman, House Health & Welfare Committee

**From:** Rebekah E. Gee, MD, MPH  
Secretary

*By Cindy Runfor*

**Re:** Second Report on Proposed Amendments to LAC 50.V.Chapters 53-61  
Outpatient Hospital Services Non-Rural, Non-State Hospitals Reimbursement  
Rate Adjustment

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Outpatient Hospital Services Non-Rural, Non-State Hospitals Reimbursement Rate Adjustment LAC 50.V.Chapters 53-61 rule amendment.

A Notice of Intent on the proposed amendments was published in the September 20, 2019 issue of the *Louisiana Register* (LR 45:1398). 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 September 20, 2019, Notice of Intent when it is published as a final rule in the December 20, 2019, issue of the *Louisiana Register*.

Should you have any questions or need additional information, please contact Jen Katzman, Medicaid Deputy Director, at [Jennifer.Katzman@la.gov](mailto:Jennifer.Katzman@la.gov).

Cc: Jen Katzman, Deputy Medicaid Director, Department of Health  
Veronica Dent, Medicaid Program Manager, Department of Health  
Anita Dupuy, Legislative Liaison, Department of Health  
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register



## **NOTICE OF INTENT**

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

#### **Outpatient Hospital Services Non-Rural, Non-State Hospitals Reimbursement Rate Adjustment (LAC 50:V.Chapters 53-61)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:V.Chapters 53-61 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.

House Concurrent Resolution (HCR) 5 of the 2019 Regular Session of the Louisiana Legislature directed the Department of Health, Bureau of Health Services Financing to adjust the reimbursement rates for outpatient hospital services. In compliance with the requirements of HCR 5, the department proposes to amend the provisions governing the reimbursement methodology for outpatient hospital services in order to adjust the reimbursement rates.

### **Title 50**

#### **PUBLIC HEALTH-MEDICAL ASSISTANCE Part V. Hospitals Subpart 5. Outpatient Hospitals**

#### **Chapter 53. Outpatient Surgery**

#### **Subchapter B. Reimbursement Methodology**

**§5313. Non-Rural, Non-State Hospitals**

A. - K.1. ...

L. Effective for dates of service on or after January 1, 2020, the reimbursement rates paid to non-rural, non-state hospitals for outpatient surgery shall be increased by 3.2 percent of the rates on file as of December 31, 2019.

1. Hospitals participating in public-private partnerships as defined in §6701 shall be exempted from this rate increase.

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 Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), LR 36:2041 (September 2010), LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:964 (May 2017), LR 43:2534 (December 2017), LR 44:2166 (December 2018), LR 45:

**§5317. Children's Specialty Hospitals**

A. - I.1. ...

J. Effective for dates of service on or after January 1, 2020, the reimbursement rates paid to children's specialty hospitals for outpatient surgery shall be increased by 3.2 percent of the rates on file as of December 31, 2019.

1. Final reimbursement shall be 100 percent of allowable cost as calculated through the cost report settlement process.

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 36:2042 (September 2010), amended LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:965 (May 2017), LR 43:2534 (December 2017), LR 44:2167 (December 2018), LR 45:

**§5319. State-Owned Hospitals**

A. - B. ...

C. Effective for dates of service on or after January 1, 2020, the reimbursement rates paid to state-owned hospitals for outpatient surgery shall be increased by 14.67 percent of the fee schedule rates on file as of December 31, 2019.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:2773 (November 2012), amended LR 40:314 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

## **Chapter 55. Clinic Services**

### **Subchapter B. Reimbursement Methodology**

#### **§5513. Non-Rural, Non-State Hospitals**

A. - K.1. ...

L. Effective for dates of service on or after January 1, 2020, the reimbursement rates paid to non-rural, non-state hospitals for outpatient clinic services shall be increased by 3.2 percent of the rates on file as of December 31, 2019.

1. Hospitals participating in public-private partnerships as defined in §6701 shall be exempted from this rate increase.

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 Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), LR 36:2042 (September 2010), LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:965 (May 2017), LR 43:2535 (December 2017), LR 44:2167 (December 2018), LR 45:

#### **§5517. Children's Specialty Hospitals**

A. - I. ...

J. Effective for dates of service on or after January 1, 2020, the reimbursement rates paid to children's specialty



hospitals for outpatient hospital clinic services shall be increased by 3.2 percent of the rates on file as of December 31, 2019.

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 36:2042 (September 2010), amended LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:965 (May 2017), LR 43:2535 (December 2017), LR 44:2167 (December 2018), LR 45:

**§5519. State-Owned Hospitals**

A. - B. ...

C. Effective for dates of service on or after January 1, 2020, the reimbursement rates paid to state-owned hospitals for outpatient clinic services shall be increased by 14.67 percent of the fee schedule rates on file as of December 31, 2019.

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 38:2774 (November 2012), amended LR 40:314 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

## **Chapter 57. Laboratory Services**

### **Subchapter B. Reimbursement Methodology**

#### **§5713. Non-Rural, Non-State Hospitals**

A. - K.2. ...

L. Effective for dates of service on or after January 1, 2020, the reimbursement rates paid to non-rural, non-state hospitals for outpatient laboratory services shall be increased by 3.2 percent of the rates on file as of December 31, 2019.

1. In accordance with Section 1903(i)(7) of the Social Security Act, payments for Medicaid clinical diagnostic laboratory services shall be limited to the amount that Medicare pays on a per test basis. If this or any other rate adjustment causes the Medicaid calculated rate to exceed the Medicare payment rate for a clinical laboratory test, the rate shall be adjusted to the lower Medicare payment rate.

2. Hospitals participating in public-private partnerships as defined in §6701 shall be exempted from this rate increase.

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 Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), LR 36:2042 (September 2010), LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of

Health Services Financing, LR 43:965 (May 2017), LR 43:2535  
(December 2017), LR 44:2167 (December 2018), LR 45:

**§5719. Children's Specialty Hospitals**

A. - I.1. ...

J. Effective for dates of service on or after January 1, 2020, the reimbursement rates paid to children's specialty hospitals for outpatient clinical diagnostic laboratory services shall be increased by 3.2 percent of the rates on file as of December 31, 2019.

1. In accordance with Section 1903(i)(7) of the Social Security Act, payments for Medicaid clinical diagnostic laboratory services shall be limited to the amount that Medicare pays on a per test basis. If this or any other rate adjustment causes the Medicaid calculated rate to exceed the Medicare payment rate for a clinical laboratory test, the rate shall be adjusted to the lower Medicare payment rate.

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 36:2043 (September 2010), amended LR 37:3267 (November 2011), LR 40:314 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:965 (May 2017), LR 43:2535 (December 2017), LR 44:2167 (December 2018), LR 45:



## **Chapter 59.      Rehabilitation Services**

### **Subchapter B.   Reimbursement Methodology**

#### **§5913.      Non-Rural, Non-State Hospitals**

A. - E.1. ...

F.    Effective for dates of service on or after January 1, 2020, the reimbursement rates paid to non-rural, non-state hospitals for outpatient rehabilitation services shall be increased by 3.2 percent of the rates on file as of December 31, 2019.

1.    Hospitals participating in public-private partnerships as defined in §6701 shall be exempted from this rate increase.

AUTHORITY NOTE:      Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE:      Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), LR 36:2043 (September 2010), LR 44:2167 (December 2018), LR 45:

#### **§5917.      Children's Specialty Hospitals**

A. - C.1. ...

D.    Effective for dates of service on or after January 1, 2020, the reimbursement rates paid to children's specialty hospitals for outpatient rehabilitation services shall be



increased by 3.2 percent of the rates on file as of December 31, 2019.

1. Final reimbursement shall be 100 percent of allowable cost as calculated through the cost report settlement process.

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 36:2043 (September 2010), amended by the Department of Health, Bureau of Health Services Financing LR 44:2168 (December 2018), LR 45:

#### **§5919. State-Owned Hospitals**

A. - A.2. ...

B. Effective for dates of service on or after January 1, 2020, the reimbursement rates paid to state hospitals for outpatient rehabilitation services shall be increased by 3.2 percent of the rates on file as of December 31, 2019.

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 38:2774 (November 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

#### **Chapter 61. Other Outpatient Hospital Services**

## **Subchapter B. Reimbursement Methodology**

### **§6115. Non-Rural, Non-State Hospitals**

A. - K.1. ...

L. Effective for dates of service on or after January 1, 2020, the reimbursement rates paid to non-rural, non-state hospitals for outpatient hospital services, other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees, shall be increased by 3.2 percent of the rates in effect as of December 31, 2019.

1. Final reimbursement shall be 85.84 percent of allowable cost as calculated through the cost report settlement process.

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 Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), LR 36:2043 (September 2010), LR 37:3267 (November 2011), LR 40:314 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:965 (May 2017), LR 43:2535 (December 2017), LR 44:2168 (December 2018), LR 45:

### **§6119. Children's Specialty Hospitals**

A. - I.1. ...

J. Effective for dates of service on or after January 1, 2020, the reimbursement fees paid to children's specialty hospitals for outpatient hospital services, other than rehabilitation services and outpatient hospital facility fees, shall be increased by 3.2 percent of the rates in effect as of December 31, 2019.

1. Final reimbursement shall be 100 percent of allowable cost as calculated through the cost report settlement process.

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 36:2044 (September 2010), amended LR 37:3267 (November 2011), LR 40:314 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:965 (May 2017), LR 43:2535 (December 2017), LR 44:2168 (December 2018), LR 45:

**§6127. State-Owned Hospitals**

A. - C. ...

D. Effective for dates of service on or after January 1, 2020, the reimbursement rates paid to state hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees shall be



increased by 11 percent of the rates in effect on December 31, 2019. Final reimbursement shall be at 100 percent of allowable cost through the cost settlement process.

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 35:957 (May 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:2774 (November 2012), LR 40:315 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

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 Statement**

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 increases payments to providers.

#### **Public Comments**

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 30, 2019.

### **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, 2019. 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 30, 2019 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, 2019. 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.

Rebekah E. Gee MD, MPH

Secretary