

DECLARATION OF EMERGENCY

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

**Nursing Facilities - Standards for Payment
Level of Care Determinations
(LAC 50:II.10156)**

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend LAC 50:II.10156 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amended the provisions governing the standards for payment for nursing facilities to clarify level of care determinations (*Louisiana Register*, Volume 39, Number 6). This Emergency Rule is being promulgated to amend the provisions governing level of care pathways in order to clarify the provisions of the June 20, 2013 Rule.

This action is being taken to promote the well-being of Louisiana citizens by clarifying the criteria for the level of

care determination for nursing facility admission and continued stay. It is anticipated that the implementation of this Emergency Rule will have no programmatic costs for state fiscal year 2014-2015.

Effective July 20, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing and Office of Aging and Adult Services amend the provisions governing the level of care pathways for nursing facilities.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Medical Assistance Program

Subpart 3. Standards for Payment

Chapter 101. Standards for Payment for Nursing Facilities

Subchapter G. Levels of Care

§10156. Level of Care Pathways

A. – B. ...

C. The level of care pathways elicit specific information, within a specified look-back period, regarding the individual's:

1. ...

2. receipt of assistance with activities of daily living (ADL);

C.3. – E.2.m. ...

F. Physician Involvement Pathway

F.1. – 2. ...

3. In order for an individual to be approved under the Physician Involvement Pathway, the individual must have one day of doctor visits and at least four new order changes within the last 14 days or:

a. at least two days of doctor visits and at least two new order changes within the last 14 days; and

F.3.b. – I.1.d. ...

2. In order for an individual to be approved under the behavior pathway, the individual must have:

a. exhibited any one of the following behaviors four to six days of the screening tool's seven-day look-back period, but less than daily:

i. – ii. ...

iii. physically abusive;

iv. socially inappropriate or disruptive;

or

b. exhibited any one of the following behaviors daily during the screening tool's seven-day look-back period:

i. – iii. ...

iv. socially inappropriate or disruptive;

or

c. experienced delusions or hallucinations within the screening tool's seven-day look-back period that

impacted his/her ability to live independently in the community;
or

d. exhibited any one of the following behaviors during the assessment tool's three-day look-back period and behavior(s) were not easily altered:

- i. wandering;
- ii. verbally abusive;
- iii. physically abusive;
- iv. socially inappropriate or disruptive;

or

e. experienced delusions or hallucinations within the assessment tool's three-day look-back period that impacted his/her ability to live independently in the community.

J. - J.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:342 (January 2011), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:1471 (June 2013), LR 40:

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.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert

Secretary