



State of Louisiana
Department of Health and Hospitals
Office of the Secretary

October 7, 2014

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Chuck Kleckley, Speaker of the House
The Honorable David Heitmeir, Chair, Senate Committee on Health and Welfare
The Honorable Scott Simon, Chair, House Committee on Health and Welfare
The Honorable Jack Donahue, Chair, Senate Finance Committee
The Honorable James R. "Jim" Fannin, Chairman, House Appropriations Committee

FROM: Kathy H. Kliebert
Secretary

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Coordinated Care Network - LACHIP Affordable Plan Benefits Administration.

The Department published a Notice of Intent on this proposed Rule in the August 20, 2014 issue of the *Louisiana Register* (Volume 40, Number 8). A public hearing was held on September 24, 2014 at which only Department of Health and Hospitals staff were present. No oral testimony was given, nor written correspondence received, regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the November 20, 2014 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

KHK/WJR/KAH

Attachments (3)

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Coordinated Care Network LACHIP Affordable Plan Benefits Administration (LAC 50:I.3103)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:I.3103 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 and Hospitals, Bureau of Health Services Financing adopted provisions which implemented a coordinated system of care in the Medicaid Program designed to improve performance and health care outcomes through a healthcare delivery system called coordinated care networks, also known as the BAYOU HEALTH Program (*Louisiana Register*, Volume 37, Number 6).

The department promulgated an Emergency Rule which amended the provisions governing the coordinated care networks in order to include health care services provided to LaCHIP Affordable Plan recipients in the BAYOU HEALTH Program (*Louisiana Register*, Volume 38, Number 12). These services were administered by the Office of Group Benefits. The administration of these services were transferred to the health plans participating in the BAYOU HEALTH Program.

The department promulgated a Rule which amended the provisions governing coordinated care networks in order to revise the recipient participation requirements (*Louisiana Register*, Volume 40, Number 6). The department subsequently promulgated an Emergency Rule which amended the provisions of the January 1, 2013 Emergency Rule in order to revise the formatting of these provisions as a result of the promulgation of the June 20, 2014 final Rule (*Louisiana Register*, Volume 40, Number 8). This will ensure that these provisions are appropriately incorporated into the *Louisiana Administrative Code*. This proposed Rule is being promulgated to continue the provisions of the August 20, 2014 Emergency Rule.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Medicaid Coordinated Care

Chapter 31. Coordinated Care Network

§3103. Recipient Participation

A. The following Medicaid recipients shall be mandatory participants in coordinated care networks:

1. - 1.d. ...

e. uninsured women who are eligible through the Louisiana Children's Health Insurance Program (LaCHIP) Prenatal Option;

f. children under the age of 19 enrolled in the LaCHIP Affordable Care Plan (Phase 5); and

A2. - C. ...

D. Participation Exclusion

1. The following Medicaid and/or CHIP recipients are excluded from participation in a CCN and cannot voluntarily enroll in a CCN. Individuals who:

a. - g. ...

h. - h.i. Reserved.

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, Bureau of Health Services Financing, LR 37:1573 (June 2011), amended LR 40:310 (February 2014), LR 40:1096 (June 2014), LR 40:

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 or autonomy as described in R.S. 49:972.

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.

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.

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 proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, September 24, 2014 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Kathy H. Kliebert

Secretary



State of Louisiana

Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION

September 24, 2014

9:30 a.m.

RE: Coordinated Care Network
LACHIP Affordable Plan Benefits Administration
Docket # 09242014-1
Department of Health and Hospitals
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on September 24, 2014 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in blue ink, appearing to read "R. Andrepont", written over a horizontal line.

Robert K. Andrepont
Medicaid Policy and
Compliance Section

09-24-14

Date

DHH/BHSF PUBLIC HEARING

Topic – Coordinated Care Network LACHIP Affordable Plan Benefits Administration

September 24, 2014

| Name | Address | Telephone Number | AGENCY or GROUP you represent |
|----------------------|--|------------------|-------------------------------|
| 1. Cornette Scott | 628 N. 4 th Street Baton Rouge, LA 70802 Bienville Building | 225-342-3881 | DHH |
| 2. | | | |
| 3. | | | |
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State of Louisiana
Department of Health and Hospitals
Office of the Secretary

October 7, 2014

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Chuck Kleckley, Speaker of the House
The Honorable David Heitmeier, Chair, Senate Committee on Health and Welfare
The Honorable Scott Simon, Chair, House Committee on Health and Welfare
The Honorable Jack Donahue, Chair, Senate Finance Committee
The Honorable James R. "Jim" Fannin, Chairman, House Appropriations Committee

FROM: Kathy H. Kliebert
Secretary

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Disproportionate Share Hospital Payments - Public-Private Partnerships.

The Department published a Notice of Intent on this proposed Rule in the August 20, 2014 issue of the *Louisiana Register* (Volume 40, Number 8). A public hearing was held on September 24, 2014 at which only Department of Health and Hospitals staff were present. No oral testimony was given, nor written correspondence received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the November 20, 2014 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

KHK/WJR/RKA

Attachments (3)

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Disproportionate Share Hospital Payments
Public-Private Partnerships
(LAC 50:V.Chapter 29)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:V.Chapter 29 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 and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which adopted provisions governing disproportionate share hospital (DSH) payments for non-state owned hospitals in order to encourage them to take over the operation and management of state-owned and operated hospitals that have terminated or reduced services (*Louisiana Register*, Volume 38, Number 11). Participating non-state owned hospitals shall enter into a cooperative endeavor agreement with the department to support this public-private partnership initiative.

The department promulgated an Emergency Rule which amended the November 1, 2012 Emergency Rule to revise the provisions governing DSH payments to hospitals participating in public-private partnerships to incorporate language approved in the

corresponding State Plan Amendment in order to ensure compliance with federal regulations (*Louisiana Register*, Volume 40, Number 7). This proposed Rule is being promulgated to continue the provisions of the July 20, 2014 Emergency Rule.

TITLE 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 29. Public-Private Partnerships

§2901. Qualifying Criteria

A. Free-Standing Psychiatric Hospitals. Effective for dates of service on or after January 1, 2013, a free-standing psychiatric hospital may qualify for this category by being:

1. a Medicaid enrolled non-state privately owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of inpatient Medicaid and uninsured hospital services by:

a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or

b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility; or

2. a Medicaid enrolled non-state publicly owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of inpatient Medicaid and uninsured hospital services by:

a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or

b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§2903. Reimbursement Methodology

A. Qualifying hospitals shall be paid a per diem rate of \$581.11 per day for each uninsured patient. Qualifying hospitals must submit costs and patient specific data in a format specified by the Department.

B. Cost and lengths of stay will be reviewed for reasonableness before payments are made. Payments shall be made on a monthly basis.

C. 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.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by ensuring that families have continued access to much needed hospital services.

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 may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by reducing the financial burden to families for hospital-related health care services.

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 may have an impact on the staffing level requirements or qualifications required to provide the same level of service and may increase direct or indirect cost to the provider to provide the same level of service. It may also enhance the provider's ability to provide the same level of service as described in HCR 170.

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 proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, September 24, 2014 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Kathy H. Kliebert

Secretary



State of Louisiana

Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION

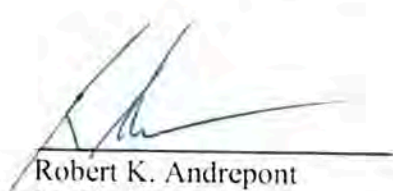
September 24, 2014

9:30 a.m.

RE: Disproportionate Share Hospital Payments
Public-Private Partnerships
Docket # 09242014-2
Department of Health and Hospitals
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on September 24, 2014 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.


Robert K. Andrepont
Medicaid Policy and
Compliance Section

09-24-14

Date

DHH/BHSF PUBLIC HEARING

Topic – Disproportionate Share Hospital Payments Public-Private Partnership

September 24, 2014

| Name | Address | Telephone Number | AGENCY or GROUP you represent |
|----------------------|---|------------------|-------------------------------|
| 1. Cornette Scott | 628 N. 4th Street Baton Rouge LA 70802 Bienville Building | 225-342-3884 | DHH |
| 2. | | | |
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State of Louisiana
Department of Health and Hospitals
Office of the Secretary

October 7, 2014

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Chuck Kleckley, Speaker of the House
The Honorable David Heitmeir, Chair, Senate Committee on Health and Welfare
The Honorable Scott Simon, Chair, House Committee on Health and Welfare
The Honorable Jack Donahue, Chair, Senate Finance Committee
The Honorable James R. "Jim" Fannin, Chairman, House Appropriations Committee

FROM: Kathy H. Kliebert
Secretary

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Early and Periodic Screening, Diagnosis and Treatment – Personal Care Services – Removal of Parental Availability.

The Department published a Notice of Intent on this proposed Rule in the August 20, 2014 issue of the *Louisiana Register* (Volume 40, Number 8). A public hearing was held on September 24, 2014 at which only the Department of Health and Hospitals staff were present. No oral testimony was given, nor written correspondence received, regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the November 20, 2014 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

KHK/WJR/CEC

Attachments (3)

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Early and Periodic Screening, Diagnosis and Treatment Personal Care Services Removal of Parental Availability (LAC 50:XV.7305)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XV.7305 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 and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing personal care services covered in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program in order to revise the reimbursement methodology to be consistent with current payment methodologies (*Louisiana Register*, Volume 36, Number 11).

The department subsequently promulgated an Emergency Rule which amended the provisions governing EPSDT personal care services in order to revise the recipient qualifications to remove the criteria regarding parental/caregiver availability in the home (*Louisiana Register*, Volume 40, Number 6). This proposed Rule is being promulgated to continue the provisions of the June 1, 2014 Emergency Rule.

Title 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 5. Early and Periodic Screening,
Diagnosis, and Treatment

Chapter 73. Personal Care Services

§7305. Recipient Qualifications

A. - A.3. ...

4. Early and Periodic Screening, Diagnosis, and Treatment personal care services must be prescribed by the recipient's attending physician initially and every 180 days thereafter (or rolling six months), and when changes in the plan of care occur. The plan of care shall be acceptable for submission to BHSF only after the physician signs and dates the completed form. The physician's signature must be an original signature and not a rubber stamp.

5. 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 of the Secretary, Bureau of Health Services Financing, LR 29:177 (February 2003), amended LR 30:253 (February 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

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 may have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by increasing access to EPSDT personal care services.

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 may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by increasing access to ESPDT personal care services which is expected to improve medical conditions and reduce health care costs to families.

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.

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 proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, September 24, 2014 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Kathy H. Kliebert

Secretary



State of Louisiana

Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION

September 24, 2014

9:30 a.m.

RE: Early and Periodic Screening, Diagnosis and Treatment
Personal Care Services
Removal of Parental Availability
Docket # 09242014-3
Department of Health and Hospitals
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on September 24, 2014 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in blue ink, appearing to read "Robert K. Andrepont", written over a horizontal line.

Robert K. Andrepont
Medicaid Policy and
Compliance Section

09-24-14

Date

DHH/BHSF PUBLIC HEARING

**Topic – Early and Periodic Screening, Diagnosis and Treatment Personal Care Services
Removal of Parental Availability**

September 24, 2014

| Name | Address | Telephone Number | AGENCY or GROUP you represent |
|----------------------|---|------------------|-------------------------------|
| 1. Cornette Scott | 628 N. 4th Street Baton Rouge LA 70802 Bienville Building | 225-342-3881 | DHCF |
| 2. | | | |
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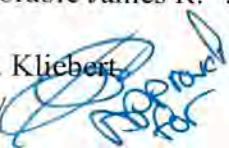


State of Louisiana
Department of Health and Hospitals
Office of the Secretary

October 7, 2014

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Chuck Kleckley, Speaker of the House
The Honorable David Heitmeir, Chair, Senate Committee on Health and Welfare
The Honorable Scott Simon, Chair, House Committee on Health and Welfare
The Honorable Jack Donahue, Chair, Senate Finance Committee
The Honorable James R. "Jim" Fannin, Chairman, House Appropriations Committee

FROM: Kathy H. Kliebert
Secretary 

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Medicaid Eligibility – Former Foster Care Adolescents.

The Department published a Notice of Intent on this proposed Rule in the August 20, 2014 issue of the *Louisiana Register* (Volume 40, Number 8). A public hearing was held on September 24, 2014 at which only the Department of Health and Hospitals staff were present. No oral testimony was given, nor written correspondence received, regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the November 20, 2014 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

KHK/WJR/CEC

Attachments (3)

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Medicaid Eligibility Former Foster Care Adolescents (LAC 50:III.2308)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:III.2308 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 352 of the 2008 Regular Session of the Louisiana Legislature authorized the Department of Health and Hospitals to adopt provisions pursuant to the Chafee Option which provide regular Medicaid coverage or an alternative benefits package to independent youth aging out of foster care. In compliance with Act 352, the department adopted provisions pursuant to the Chafee Option to establish a new Medicaid eligibility group to provide Medicaid coverage to youth between the ages of 18 and 21 who are transitioning out of foster care (*Louisiana Register*, Volume 35, Number 11).

The Patient Protection and Affordable Care Act of 2010 and Education Reconciliation Act of 2010 (collectively referred to as the Affordable Care Act) require Medicaid to expand coverage to foster care adolescents ages 18 to 26 who are transitioning out of

foster care. In compliance with the Affordable Care Act, the department promulgated an Emergency Rule which adopted provisions to establish a new Medicaid eligibility group to provide Medicaid coverage to former foster care adolescents from age 18 to 26 who are transitioning out of foster care (*Louisiana Register*, Volume 40, Number 1).

The department promulgated an Emergency Rule which amended the provisions of the December 31, 2013 Emergency Rule to clarify the provisions and to correct the Section number in order to ensure that these provisions are promulgated appropriately in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 40, Number 1). This proposed Rule is being promulgated to continue the provisions of the January 20, 2014 Emergency Rule.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 3. Eligibility Groups and Factors

Chapter 23. Eligibility Groups and Medicaid Programs

§2308. Former Foster Care Adolescents

A. Pursuant to the Patient Protection and Affordable Care Act of 2010 (collectively referred to as the Affordable Care Act), the Department of Health and Hospitals hereby implements a Medicaid eligibility group, effective December 31, 2013, to provide health care coverage to youth who are transitioning out of foster care to self-sufficiency upon reaching age 18 or at a

higher age selected by the department. This eligibility group will be called former foster care adolescents.

B. Eligibility Requirements. Youth who age out of foster care and meet all of the following requirements may receive Medicaid health care coverage under this new eligibility group.

1. The youth must be from age 18 up to age 26.

2. The youth must have been in foster care and in state custody, either in Louisiana or another state, and receiving Medicaid upon turning age 18 or upon aging out of foster care at a higher age selected by the department.

3. The youth must live in Louisiana.

C. Income, resources and insurance status are not considered when determining eligibility.

D. Individuals determined eligible in this group shall receive coverage of medically necessary health care services provided under the Medicaid State Plan.

1. The assistance unit shall consist of the youth only.

E. Eligibility for the program will continue until the youth reaches age 26 unless the youth:

1. moves out of state;
2. requests closure of the case;
3. is incarcerated; or
4. dies.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR: 40

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 may have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by ensuring continued Medicaid coverage for youth transitioning out of foster care.

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 may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by ensuring continued Medicaid coverage for youth transitioning out of foster care which is expected to improve medical conditions and reduce health care costs to families.

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.

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 proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, September 24, 2014 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Kathy H. Kliebert

Secretary



State of Louisiana

Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION

September 24, 2014

9:30 a.m.

RE: Medicaid Eligibility
Former Foster Care Adolescents
Docket # 09242014-4
Department of Health and Hospitals
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on September 24, 2014 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in blue ink, appearing to read "Robert K. Andrepont", written over a horizontal line.

Robert K. Andrepont
Medicaid Policy and
Compliance Section

09-24-14

Date

DHH/BHSF PUBLIC HEARING

Topic – Medicaid Eligibility Former Foster Care Adolescents

September 24, 2014

| Name | Address | Telephone Number | AGENCY or GROUP you represent |
|----------------------|--|------------------|-------------------------------|
| 1. Cornette Scott | 638 N 4th Street Baton Rouge LA 70802 Bienville Building | 225-342-3881 | DHCH |
| 2. | | | |
| 3. | | | |
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State of Louisiana
Department of Health and Hospitals
Office of the Secretary

October 7, 2014

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Chuck Kleckley, Speaker of the House
The Honorable David Heitmeier, Chair, Senate Committee on Health and Welfare
The Honorable Scott Simon, Chair, House Committee on Health and Welfare
The Honorable Jack Donahue, Chair, Senate Finance Committee
The Honorable James R. "Jim" Fannin, Chairman, House Appropriations Committee

FROM: Kathy H. Kliebert
Secretary

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Medicaid Eligibility - Income Disregards for Children.

The Department published a Notice of Intent on this proposed Rule in the August 20, 2014 issue of the *Louisiana Register* (Volume 40, Number 8). A public hearing was held on September 24, 2014 at which only Department of Health and Hospitals staff were present. No oral testimony was given, nor written comments received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the November 20, 2014 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

KHK/WJR/RKA

Attachments (3)

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Medicaid Eligibility Income Disregards for Children (LAC 50:III.10305)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:III.10305 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 and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule promulgating the Medicaid Eligibility Manual in its entirety by reference, including Section Z-200 which addresses income disregards for children under age 19 (*Louisiana Register*, Volume 22, Number 5). The May 20, 1996 Rule was repromulgated on July 20, 1996 to make corrections to the price of the manual (*Louisiana Register*, Volume 22, Number 7). The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing eligibility income disregards to establish an income disregard that shall allow for eligibility for home and community-based services as though the individual was a resident of a nursing facility or an intermediate care facility for persons with intellectual disabilities (*Louisiana Register*, Volume 38, Number 9).

The Patient Protection and Affordable Care Act of 2010 and Education Reconciliation Act of 2010 (collectively referred to as the Affordable Care Act) require all poverty level children between the ages of 0-18 to have the same minimum income limit to be eligible. The May 20, 1996 and July 20, 1996 Rules include different limits disregards for children ages 0 to 5 and 6 to 18. In compliance with the Affordable Care Act, the department promulgated an Emergency Rule which amended the provisions governing income disregards to establish equal income limits for children under age 19 (*Louisiana Register*, Volume 40, Number 1). This proposed Rule is being promulgated to continue the provisions of the December 31, 2013 Emergency Rule.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part III. Eligibility
Subpart 5. Financial Eligibility

Chapter 103. Income

§10305. Income Disregards

A. - B.5. ...

C. Effective December 31, 2013, the income of children ages 6 to 19 from 100 percent up to 142 percent of the Federal Poverty Level shall be disregarded.

D. Reserved.

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 34:1629 (August 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1898 (September 2009), LR 40:

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 may have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by ensuring that all poverty level children under age 19 are allowed the same income limits for determining Medicaid eligibility.

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 may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by reducing the financial burden for health care costs for certain families who will now meet the new income standards.

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.

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 proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, September 24, 2014 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Kathy H. Kliebert

Secretary

Bobby Jindal
GOVERNOR



Kathy H. Kliebert
SECRETARY

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

PUBLIC HEARING CERTIFICATION
September 24, 2014
9:30 a.m.

RE: Medicaid Eligibility
Income Disregards for Children
Docket # 09242014-5
Department of Health and Hospitals
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on September 24, 2014 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in blue ink, appearing to read "Robert K. Andrepont", written over a horizontal line.

Robert K. Andrepont
Medicaid Policy and
Compliance Section

09-24-14

Date

DHH/BHSF PUBLIC HEARING

Topic – Medicaid Eligibility Income Disregards for Children

September 24, 2014

| Name | Address | Telephone Number | AGENCY or GROUP you represent |
|-------------------|--|------------------|-------------------------------|
| 1. Cornette Sicht | 638 N. 4th Street Baton Rouge LA 70803 Brienville Building | 225-342-3884 | DHH |
| 2. | | | |
| 3. | | | |
| 4. | | | |
| 5. | | | |
| 6. | | | |



State of Louisiana
Department of Health and Hospitals
Office of the Secretary

October 7, 2014

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Chuck Kleckley, Speaker of the House
The Honorable David Heitmeir, Chair, Senate Committee on Health and Welfare
The Honorable Scott Simon, Chair, House Committee on Health and Welfare
The Honorable Jack Donahue, Chair, Senate Finance Committee
The Honorable James R. "Jim" Fannin, Chairman, House Appropriations Committee

FROM: Kathy H. Kliebert
Secretary

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Medicaid Eligibility - Income Disregards for Pregnant Minors.

The Department published a Notice of Intent on this proposed Rule in the August 20, 2014 issue of the *Louisiana Register* (Volume 40, Number 8). A public hearing was held on September 24, 2014 at which only Department of Health and Hospitals staff were present. No oral testimony was given, nor written correspondence received, regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the November 20, 2014 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

KHK/WJR/KAH

Attachments (3)

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Medicaid Eligibility Income Disregards for Pregnant Minors (LAC 50:III.10305)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:III.10305 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 and Hospitals, Bureau of Health Services Financing promulgated a final Rule which repealed the provisions of the June 20, 2003 Rule governing income disregards for low income pregnant women in order to adopt more restrictive eligibility standards (*Louisiana Register*, Volume 39, Number 12). As a result of the Medicaid eligibility changes for January 2014, these income disregard provisions were determined to no longer be applicable to the financial eligibility determination for Medicaid coverage of low income pregnant women in the LaMOMS Program.

In compliance with the Patient Protection and Affordable Care Act of 2010, the department promulgated an Emergency Rule which amended the provisions governing the Medicaid eligibility

group for Pregnant Unmarried Minors (PUMs) by disregarding the income of parents when determining eligibility for pregnant women up to age 18 (*Louisiana Register*, Volume 40, Number 1). This proposed Rule is being promulgated to continue the provisions of the December 31, 2013 Emergency Rule.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part III. Eligibility
Subpart 5. Financial Eligibility

Chapter 103. Income

§10305. Income Disregards

A. — B.5. ...

C. Reserved.

D. Effective December 31, 2013, the income of parents or siblings of pregnant unmarried minors (PUMs) or pregnant minor unmarried mothers (MUMs) will not be included when determining Medicaid eligibility for a PUM or pregnant MUM.

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 34:1629 (August 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1898 (September 2009), LR 40:

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 may have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 as it permits the state to continue to provide vital prenatal health care services to pregnant minors in order to promote healthy pregnancies and healthy children.

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 may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by reducing the financial burden on families by improving access to Medicaid covered services for pregnant unmarried minors who may otherwise be uninsured.

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.

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 proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, September 24, 2014 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Kathy H. Kliebert

Secretary

Bobby Jindal
GOVERNOR



Kathy H. Kliebert
SECRETARY

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

PUBLIC HEARING CERTIFICATION
September 24, 2014
9:30 a.m.

RE: Medicaid Eligibility
Income Disregards for Pregnant Minors
Docket # 09242014-6
Department of Health and Hospitals
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on September 24, 2014 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in blue ink, appearing to read "Robert K. Andrepont", written over a horizontal line.

Robert K. Andrepont
Medicaid Policy and
Compliance Section


09-24-14

Date

DHH/BHSF PUBLIC HEARING

Topic – Medicaid Eligibility Income Disregards for Pregnant Minors

September 24, 2014

| Name | Address | Telephone Number | AGENCY or GROUP you represent |
|---|---|------------------|-------------------------------|
| 1. Cornette Scott | 638 N. 4th Street Baton Rouge LA 70802 Bienville Building | 225-342-3884 | DHIT |
| 2.  | ‘ ‘ | | ‘ ‘ |
| 3. | | 225-342-9319 | |
| 4. | | | |
| 5. | | | |
| 6. | | | |



State of Louisiana
Department of Health and Hospitals
Office of the Secretary

October 7, 2014

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Chuck Kleckley, Speaker of the House
The Honorable David Heitmeier, Chair, Senate Committee on Health and Welfare
The Honorable Scott Simon, Chair, House Committee on Health and Welfare
The Honorable Jack Donahue, Chair, Senate Finance Committee
The Honorable James R. "Jim" Fannin, Chairman, House Appropriations Committee

FROM: Kathy H. Kliebert
Secretary

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Outpatient Hospital Services - Removal of Emergency Room Visit Limits.

The Department published a Notice of Intent on this proposed Rule in the August 20, 2014 issue of the *Louisiana Register* (Volume 40, Number 8). A public hearing was held on September 24, 2014 at which only Department of Health and Hospitals staff were present. No oral testimony was given, nor written comments received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the November 20, 2014 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

KHK/WJR/RKA

Attachments (3)

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Outpatient Hospital Services Removal of Emergency Room Visit Limits (LAC 50.V.5117)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend the August 20, 1983 Rule governing outpatient hospital services 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 and Human Resources, Office of Family Security promulgated a Rule governing outpatient hospital services that placed limits on the number of visits for selected services, including emergency room services (*Louisiana Register*, Volume 9, Number 8).

The U.S. Department of Health and Human Services, Centers for Medicaid and Medicare Services (CMS) notified the department that the current provisions governing outpatient hospital services covered in the Medicaid State Plan were no longer consistent with federal regulations due to the visit limits placed on emergency room services. To ensure compliance with federal regulations, the department promulgated an Emergency Rule which amended the August 20, 1983 Rule governing outpatient hospital services to remove the visit limits on emergency room services (*Louisiana Register*, Volume

40, Number 5). This proposed Rule is being promulgated to continue the provisions of the June 1, 2014 Emergency Rule and to ensure that these provisions are appropriately promulgated in a codified format for inclusion in the *Louisiana Administrative Code*.

Title 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 5. Outpatient Hospital Services

Chapter 51. General Provisions

§5117. Service Limits

A. Outpatient hospital services shall be limited to the following:

1. rehabilitation services-number of visits in accordance with a rehabilitation plan prior authorized by the department or its designee;
2. clinic services-physician services provided in a clinic in an outpatient hospital setting shall be considered physician services, not outpatient services, and shall be included in the limit of 12 physician visits per year per recipient; and
3. all other outpatient services, including therapeutic and diagnostic radiology services, shall have no limit imposed other than the medical necessity for the services.

B. There shall be no limits placed on emergency room visits.

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 Human Resources, Office of Family Security, LR 9:551 (August 1983), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

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 this Rule will increase access to emergency room services.

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by reducing the financial burden on families for the cost of emergency room services.

In compliance with House Concurrent Resolution 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 since this proposed Rule may increase payments to providers for the same services they already render.

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 proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, September 24, 2014 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Kathy H. Kliebert

Secretary



State of Louisiana

Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION

September 24, 2014

9:30 a.m.

RE: Outpatient Hospital Services
Removal of Emergency Room Visit Limits
Docket # 09242014-7
Department of Health and Hospitals
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on September 24, 2014 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in blue ink, appearing to read "Robert K. Andrepont", written over a horizontal line.

Robert K. Andrepont
Medicaid Policy and
Compliance Section

09-24-14

Date

DHH/BHSF PUBLIC HEARING

Topic — Outpatient Hospital Services Removal of Emergency Room Visit Limits

September 24, 2014

| Name | Address | Telephone Number | AGENCY or GROUP you represent |
|-----------------------------|--|---------------------|-------------------------------|
| 1. <i>Carmetta D. Scott</i> | <i>628 N. 4th Street Baton Rouge LA 70802 Bienville Building</i> | <i>285-342-3881</i> | <i>DHAP</i> |
| 2. | | | |
| 3. | | | |
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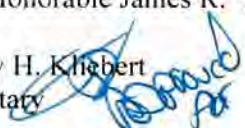


State of Louisiana
Department of Health and Hospitals
Office of the Secretary

October 7, 2014

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Chuck Kleckley, Speaker of the House
The Honorable David Heitmeir, Chair, Senate Committee on Health and Welfare
The Honorable Scott Simon, Chair, House Committee on Health and Welfare
The Honorable Jack Donahue, Chair, Senate Finance Committee
The Honorable James R. "Jim" Fannin, Chairman, House Appropriations Committee

FROM: Kathy H. Kliebert
Secretary 

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Professional Services Program – Family Planning Services – Long-Acting Reversible Contraceptives Reimbursements.

The Department published a Notice of Intent on this proposed Rule in the July 20, 2014 issue of the *Louisiana Register* (Volume 40, Number 7). A public hearing was held on August 27, 2014 at which only Department of Health and Hospitals staff were present. No oral testimony was given; however, written correspondence was received from Ms. Donna Alexander of Planned Parenthood Care regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the November 20, 2014 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification;
3. the public hearing attendance roster;
4. written correspondence from Donna Alexander; and
5. agency response to Donna Alexander.

KHK/WJR/KAH

Attachments (5)

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing**

**Professional Services Program
Family Planning Services
Long-Acting Reversible Contraceptives Reimbursements
(LAC 50:IX.15145)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:IX.15145 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 and Hospitals, Bureau of Health Services Financing currently provides Medicaid coverage and reimbursement for family planning services, including long-acting reversible contraceptives (LARCs), under the Professional Services Program.

The department has determined that the reimbursement rates for LARCs covered under the Professional Services Program are markedly below the current acquisition cost to the provider. To ensure Medicaid recipients continue to have access to long-acting reversible contraceptives, and to ensure continued provider participation in the Professional Services Program, the Department now proposes to amend the provisions governing the reimbursement methodology for family planning services to

establish provider reimbursements for long-acting reversible contraceptives according to the fee on file at the time of insertion.

Part IX. Professional Services Program
Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter E. Family Planning Services

§15145. Long-Acting Reversible Contraceptives

A. The reimbursement rates for acquiring long-acting reversible contraceptives shall be adjusted to accommodate annual changes in acquisition cost. Physicians and professional services practitioners shall be reimbursed for the contraceptive according to the fee on file at the time of insertion.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

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.

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 may have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by increasing access to long-acting reversible contraceptives.

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 may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by reducing the financial burden to families for costs associated with the acquisition of long-acting reversible contraceptives.

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, 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 for services they already render.

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 proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, August 27, 2014 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Kathy H. Kliebert

Secretary

Bobby Jindal
GOVERNOR



Kathy H. Kliebert
SECRETARY

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

PUBLIC HEARING CERTIFICATION

August 27, 2014
9:30 a.m.

RE: Professional Services Program
Family Planning Services
Long-Acting Reversible
Contraceptives Reimbursements
Docket # 082714-06
Department of Health and Hospitals
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted August 27, 2014 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in black ink, appearing to read "Cedric Clark", written over a horizontal line.

Cedric Clark
Medicaid Policy and
Compliance Section

08/27/2014
Date

DHH/BHSF PUBLIC HEARING

Topic – Professional Services Program – Family Planning Services Long-Acting Reversible Contraceptives Reimbursement

August 27, 2014

| Name | Address | Telephone Number | AGENCY or GROUP you represent |
|-------------------|--|------------------|-------------------------------|
| 1. Cornette Scott | Bienville Building 628 North 4th Street Baton Rouge LA 70821 | 225-342-3881 | DHH |
| 2. Karen Marquis | 460 Leland St. BL. LA 70801 | 225-378-3243 | Acorns and Lescage |
| 3. | | | |
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From: Alexander, Donna [mailto:Donna.Alexander@ppgulfcoast.org]

Sent: Thursday, August 28, 2014 11:29 AM

To: Medicaid Policy

Cc: charles.castille@arlaw.com

Subject: Comments on DHH Bureau of Health Services Financing's Notice of Intent on Long-Acting Reversible Contraceptives Reimbursements

Dear Ms. Kennedy:

Planned Parenthood Gulf Coast in Louisiana is pleased to submit comments on the proposed Long-Acting Reversible Contraceptive (LARC) Reimbursements rule. As a trusted women's health care provider, Planned Parenthood in Louisiana commends the Department of Health and Hospitals for its commitment to making LARCs accessible to all Medicaid beneficiaries, and we thank you for the opportunity to comment on this important rule. Given that the majority of Louisiana's Medicaid population is female, it is essential that the Medicaid program reflect the unique ways women access health care, including family planning services, and ensure the program has sufficient provider capacity to meet women's health care needs.

Increasing reimbursement rates for the provision of LARCs will ensure providers have capacity to provide timely, accessible contraceptive care to women covered by Louisiana Medicaid. LARCs are among the most effective birth control methods, and, if used for their entire duration, are also the most economical. LARC use has increased substantially over the years, indicating that more women are likely to choose a LARC than another form of birth control if a LARC is available and accessible. A recent study demonstrated that women who chose LARCs are 20 times less likely to experience an unintended pregnancy than those who chose short-term methods such as the oral contraceptive pill or the patch.^[1] Women who cannot access their LARC method during their initial health care visits, and must instead pick up their LARCs at a pharmacy and come back to the health center for insertion, face obstacles that can often result in them resorting to less reliable methods, or no birth control use at all.

One of the most popular LARCs chosen by our patients is the Depo-Provera injection, with which providers have recently experienced significant challenges with reimbursement. Beginning January 1, 2013, the Centers for Medicare and Medicaid Services (CMS) adjusted the billing requirements for medroxyprogesterone acetate (Depo-Provera or "Depo") injections. Healthcare Common Procedure Coding System (HCPCS) codes J1051 (Depo Injection, 50 milligram (mg)), J1055 (Depo Injection, 150 mg) and J1056 (Depo Injection, 5 mg/25 mg) were discontinued and replaced with a single code, J1050.^[2] The J1050 billing code is intended to simplify the billing procedure by providing for per unit billing under one procedure code. The new code also takes into account the purpose of the injection for contraceptive and non-contraceptive use.

^[1] <http://news.wustl.edu/news/Pages/23899.aspx>

^[2] The Centers for Medicare and Medicaid Services (CMS). MLN Matters. 2013 Jan. <http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/downloads/MM8141.pdf>.

Since this change, the per milligram reimbursement rate provided for by LA Medicaid's fee schedules for both Take Charge and Bayou Health has been insufficient to ensure that family planning providers are able to stock Depo-Provera, and thus provide it to patients at the time of their initial visits. The current per milligram reimbursement for Depo-Provera, according to the current LA Medicaid fee schedule, is 17 cents per milligram. Since the contraceptive use of Depo-Provera is 150 mgs, the total reimbursement (\$25.50) is markedly under the acquisition cost to providers. Failure to increase the reimbursement rate will make it impracticable for family planning providers to offer Depo to their patients, which in turn, will limit women's access to the full range of effective contraceptive methods.

With respect to intrauterine devices (IUDs), increasing the reimbursement rate will allow providers to purchase stock of this contraceptive option and then bill from that stock during each visit, so that patients do not have to wait for their device to be specifically ordered and return to the health center for insertion. In the past, this has led to patients failing to return for insertion and has led to waste of those products, since once they have been ordered for a specific patient, they cannot be used on anyone else.

We thank the Department for recognizing the problem with the current LARC reimbursement structure and for seeking to rectify it via this rule. To strengthen the proposed rule and ensure smooth implementation, we respectfully ask the Department to clarify that the increased reimbursement rate will apply to all LARC services (IUDs, implants, and injections) provided through the Medicaid program, including the Medicaid Family Planning State Plan Amendment (formerly "Take Charge"). We ask for explicit clarification that the "fee on file" reflect at least the average wholesale acquisition cost of each device or drug and that the Department clarify how the new reimbursement rates on the fee schedule will be set. Lastly, we urge the Department to make it clear that reimbursement for the device or drug shall be the same regardless of whether the contraceptive is delivered by a physician or mid-level provider, since cost of acquisition does not change by provider type.

These clarifications will help ensure that providers receive the financial support necessary to provide LARC services to Medicaid enrollees in a timely and efficient manner.

We thank you for the opportunity to submit these comments. If you have any questions, please do not hesitate to contact me at Donna.Alexander@ppgulfcoast.org or 713.858.0073 (mobile)

Sincerely,

Donna Alexander

^[1] <http://news.wustl.edu/news/Pages/23899.aspx>

^[2] The Centers for Medicare and Medicaid Services (CMS). MLN Matters. 2013 Jan. <http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/downloads/MM8141.pdf>.



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From: [Veronica Dent](#)
To: ["Donna.Alexander@ppgulfcoast.org"](mailto:Donna.Alexander@ppgulfcoast.org)
Cc: [Ruth Kennedy \(DHH-MVA\)](#); [Darlene Budgewater](#); [Lalauni Williams](#); [Gail Williams \(DHH-MVA\)](#); [Cindy Caroon](#); [Libby Gonzales](#)
Subject: RE: Comments on DHH Bureau of Health Services Financing's Notice of Intent on Long-Acting Reversible Contraceptives Reimbursements
Date: Friday, October 03, 2014 2:54:00 PM

Dear Ms. Alexander,

This email is in response to your email received on August 28, 2014 regarding the Professional Services Program – Family Planning Services – Long-Acting Reversible Contraceptives Reimbursement Notice of Intent that was published in the July 20, 2014 edition of the *Louisiana Register*. We have reviewed your comments and given consideration to the concerns expressed regarding this Notice of Intent.

This proposed rule amends the provisions governing the reimbursement methodology for family planning services to establish provider reimbursements for long-acting reversible contraceptives (LARCs) according to the fee on file at the time of insertion.

The reimbursement methodology proposed in this rule applies to Depo-Provera and its reimbursement will be increased as described in the rule. Take Charge Plus reimbursement for LARCs will mirror reimbursement in Medicaid. The "fee on file" will be updated annually during the Healthcare Procedure Coding System update. The fee will be determined by the Medicaid pharmacy program's wholesale acquisition rate for each Intrauterine Device and Depo-Provera at the time of the update. The effective date for the updated fees will be January 1st each year. It is the intention of the Medicaid Program that the reimbursement for the device or drug shall be the same whether delivered by a physician or a mid-level provider.

I would like to thank you for taking the time to comment on this Notice of Intent and hope that you will continue to work with us as we strive to meet the health care needs of Louisiana citizens who rely on family planning services.

Should you have any questions or comments regarding Medicaid administrative rulemaking activity, my contact information is included below.

Veronica Y. Dent

Medicaid Program Manager
Rulemaking Unit
Medicaid Policy and Compliance Section
Phone: 225-342-3238 | Fax: 225-376-4777
veronica.dent@la.gov
Mon-Fri, 7:30 a.m. – 4:00 p.m.

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