



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

February 5, 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 Home and Community-Based Services Waivers - Children's Choice - Allocation of Waiver Opportunities.

The Department published a Notice of Intent on this proposed Rule in the December 20, 2013 issue of the *Louisiana Register* (Volume 39, Number 12). The public hearing originally scheduled for January 29, 2014, was postponed until February 4, 2014 due to inclement winter weather conditions. Pursuant to R.S. 42:19 et seq., as it relates to cases of extraordinary emergency, written notification of the public hearing postponement was posted at the Department's building location and website, and the Office of the State Register's website, at least twenty-four hours preceding January 29, 2014.

A public hearing was subsequently held on February 4, 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 March 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/JP/RKA

Attachments (3)

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing and
Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers
Children's Choice
Allocation of Waiver Opportunities
(LAC 50:XXI.11107)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.11107 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 and the Office for Citizens with Developmental Disabilities adopted provisions in the Children's Choice Waiver for the allocation of additional waiver opportunities for the Money Follows the Person Rebalancing Demonstration Program (*Louisiana Register*, Volume 35, Number 9). The department promulgated an Emergency Rule which amended the provisions of the Children's Choice Waiver to provide for the allocation of waiver opportunities for children who have been identified by the Office for Citizens with Developmental Disabilities regional offices and human services authorities and districts as meeting state-funded family support criteria for priority level 1 and 2, and needing

more family support services than what is currently available through state-funded family support services (*Louisiana Register*, Volume 36, Number 9). The department promulgated an Emergency Rule which amended the provisions of the Children's Choice Waiver in order to extend the time period for the allocation of waiver opportunities in the Money Follows the Person Rebalancing Demonstration Program (*Louisiana Register*, Volume 37, Number 9).

The department promulgated an Emergency Rule which amended the provisions of the September 20, 2010 Emergency Rule in order to correct a formatting error within the Section (*Louisiana Register*, Volume 39, Number 4). This proposed Rule is being promulgated to continue the provisions of the April 20, 2013 Emergency Rule.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XXI. Home and Community-Based Services Waivers Subpart 9. Children's Choice

Chapter 111. General Provisions

§11107. Allocation of Waiver Opportunities

A. The order of entry in the Children's Choice Waiver is first come, first served from a statewide list arranged by date of application for the Developmental Disabilities Request for Services Registry for the New Opportunities Waiver. Families shall be given a choice of accepting an opportunity in the Children's Choice Waiver or remaining on the DDRFSR for the NOW.

1. The only exceptions to the first come, first

served allocation of waiver opportunities shall be for the:

- a. Money Follows the Person Rebalancing Demonstration waiver opportunities which are allocated to demonstration participants only; and
- b. waiver opportunities which are allocated to children who have been determined to need more services than what is currently available through state funded family support services.

c. Reserved.

B. ...

1. - 1.b. Reserved.

C. Four hundred twenty-five opportunities shall be designated for qualifying children with developmental disabilities that have been identified by the Office for Citizens with Developmental Disabilities (OCDD) regional offices and human services authorities and districts as needing more family support services than what is currently available through state funded family support services.

1. To qualify for these waiver opportunities, children must:

- a. be under 18 years of age;
- b. be designated by the OCDD regional office, human services authority or district as meeting priority level 1 or 2 criteria;
- c. be Medicaid eligible;

d. be eligible for state developmental disability services; and

e. meet the ICF/DD level of care.

2. Each OCDD regional office and human services authority or district shall be responsible for the prioritization of these opportunities. Priority levels shall be defined according to the following criteria:

a. Priority Level 1. Without the requested supports, there is an immediate or potential threat of out-of-home placement or homelessness due to:

i. the individual's medical care needs;
ii. documented abuse or neglect of the individual;

iii. the individual's intense or frequent challenging behavioral needs;

iv. death or inability of the caregiver to continue care due to their own age or health; or

v. the possibility that the individual may experience a health crisis leading to death, hospitalization or placement in a nursing facility.

b. Priority Level 2. Supports are needed to prevent the individual's health from deteriorating or the individual from losing any of their independence or productivity.

3. Children who qualify for one of these waiver opportunities are not required to have a protected request date

on the Developmental Disabilities Request for Services Registry.

4. Each OCDD regional office, human services authority and district shall have a specific number of these opportunities designated to them for allocation to waiver recipients.

5. In the event one of these opportunities is vacated, the opportunity shall be returned to the allocated pool for that particular OCDD regional office, human services authority or district for another opportunity to be offered.

6. Once all of these opportunities are filled, supports and services, based on the priority determination system, will be identified and addressed through other resources currently available for individuals with developmental disabilities.

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, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1892 (September 2009), amended 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 will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972 by increasing access to critical family support services for 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 will have a positive impact on child, individual, and family poverty in relation to individual or community asset development as described in R.S. 49:973 by increasing access to Medicaid covered services which may reduce the financial burden on families.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, January 29, 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

DHH/BHSF PUBLIC HEARING

Topic – Home and Community-Based Services Waivers – Children's Choice – Allocation of Waiver Opportunities

February 4, 2014

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornetta Scott	State of Louisiana Dept. of Health & Hospitals 628 N. 4th Street Baton Rouge, LA 70802	225-342-3881	D H H
2. Kiydra Singleton	"	225-342-3086	"
3.			
4.			
5.			
6.			



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

PUBLIC HEARING CERTIFICATION

February 4, 2014

1:00 p.m.

RE: Home and Community-Based Services Waivers
Children's Choice
Allocation of Waiver Services
Docket # 020414-02
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 February 4, 2014 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in black ink, appearing to read "Kaylin A. Haynes".

Kaylin A. Haynes
Medicaid Policy and
Compliance

02/04/14
Date



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

February 5, 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 Home and Community-Based Services Waivers - Children's Choice - Money Follows the Person Rebalancing Demonstration Extension .

The Department published a Notice of Intent on this proposed Rule in the December 20, 2013 issue of the *Louisiana Register* (Volume 39, Number 12). The public hearing originally scheduled for January 29, 2014, was postponed until February 4, 2014 due to inclement winter weather conditions. Pursuant to R.S. 42:19 et seq., as it relates to cases of extraordinary emergency, written notification of the public hearing postponement was posted at the Department's building location and website, and the Office of the State Register's website, at least twenty-four hours preceding January 29, 2014.

A public hearing was subsequently held on February 4, 2014 at which only Department 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 March 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/JP/RKA

Attachments (3)

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing and
Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers
Children's Choice

Money Follows the Person Rebalancing Demonstration Extension
(LAC 50:XXI.11107)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.11107 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 and the Office for Citizens with Developmental Disabilities adopted provisions in the Children's Choice Waiver for the allocation of additional waiver opportunities for the Money Follows the Person Rebalancing Demonstration Program (*Louisiana Register*, Volume 35, Number 9). The department promulgated an Emergency Rule which amended the provisions of the Children's Choice Waiver to provide for the allocation of waiver opportunities for children who have been identified by the Office for Citizens with Developmental Disabilities regional offices and human services authorities and districts as meeting state-funded family support criteria for

priority level 1 and 2, and needing more family support services than what is currently available through state-funded family support services (*Louisiana Register*, Volume 36, Number 9).

The allocation of opportunities for the Money Follows the Person Rebalancing Demonstration Program was scheduled to end September 30, 2011. Section 2403 of the Affordable Care Act of 2010 authorized an extension of the Money Follows the Person Rebalancing Demonstration Program until September 30, 2016. The department promulgated an Emergency Rule which amended the provisions of the Children's Choice Waiver in order to extend the time period for the allocation of waiver opportunities in the Money Follows the Person Rebalancing Demonstration Program (*Louisiana Register*, Volume 37, Number 9). The department subsequently promulgated an Emergency Rule which amended the provisions of the September 20, 2010 Emergency Rule in order to correct a formatting error within the Section (*Louisiana Register*, Volume 39, Number 4). This proposed Rule is being promulgated to continue the provisions of the September 20, 2011 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community-Based Services Waivers

Subpart 9. Children's Choice

Chapter 111. General Provisions

§11107. Allocation of Waiver Opportunities

A. - A.1. ...

a. - c. Reserved.

B. ...

1. The MFP Rebalancing Demonstration will stop allocation of opportunities on September 30, 2016.

a. In the event that an MFP Rebalancing Demonstration opportunity is vacated or closed before September 30, 2016, the opportunity will be returned to the MFP Rebalancing Demonstration pool and an offer will be made based upon the approved program guidelines.

b. In the event that an MFP Rebalancing Demonstration opportunity is vacated or closed after September 30, 2016, the opportunity will cease to exist.

C. - 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, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1892 (September 2009), amended 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 by increasing access to services to enable children to transition

from institutional settings and maintain access to specialized services to meet their needs in a home and community-based setting.

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, and family poverty in relation to individual or community asset development as described in R.S. 49:973 by increasing access to Medicaid covered services which may reduce the financial burden on families that have children who are transitioning out of institutional settings.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, January 29, 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

DHH/BHSF PUBLIC HEARING

Topic – Home and Community-Based Services Waivers – Children's Choice – Money
Follows the Person Rebalancing Demonstration Extension

February 4, 2014

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornetta Scott	State of Louisiana Department of Health & Hospitals 628 N. 4th Street Baton Rouge, LA 70802	225-342-3881	DHH
2. Kara H. Barnes	"	342 1438	DHH
3.			
4. Yolanda M. Ellis	"	342-6842	DHH
5.			
6.			



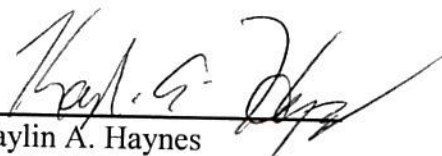
State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
February 4, 2014
1:00 p.m.

RE: Home and Community-Based Services Waivers
Children's Choice
Money Follows the Person Rebalancing
Demonstration Extension
Docket # 020414-03
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 February 4, 2014 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.



Kaylin A. Haynes
Medicaid Policy and
Compliance

02/04/14

Date

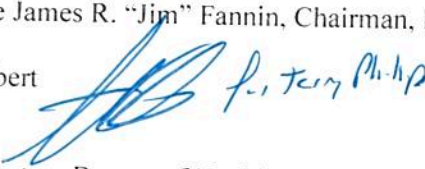


State of Louisiana
Department of Health and Hospitals
Office of the Secretary

February 5, 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 Inpatient Hospital Services – Small Rural Hospitals – Low Income and Needy Care Collaboration.

The Department published a Notice of Intent on this proposed Rule in the December 20, 2013 issue of the *Louisiana Register* (Volume 39, Number 12). The public hearing originally scheduled for January 29, 2014, was postponed until February 4, 2014 due to inclement winter weather conditions. Pursuant to R.S. 42:19 et seq., as it relates to cases of extraordinary emergency, written notification of the public hearing postponement was posted at the Department's building location and website, and the Office of the State Register's website, at least twenty-four hours preceding January 29, 2014. A public hearing was subsequently held on February 4, 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 March 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/JP/CEC

Attachments (3)

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Inpatient Hospital Services
Small Rural Hospitals
Low Income and Needy Care Collaboration
(LAC 50:V.1125)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:V.1125 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.

In compliance with Act 327 of the 2007 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the reimbursement methodology governing state fiscal year 2009 Medicaid payments to small rural hospitals for inpatient acute care services and psychiatric services (*Louisiana Register*, Volume 35, Number 5). The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to provide for a supplemental Medicaid payment to small rural hospitals that enter into an agreement with a state or local governmental entity for the purpose of providing

healthcare services to low income and needy patients (*Louisiana Register*, Volume 37, Number 11). This proposed Rule is being promulgated to continue the provisions of the October 20, 2011 Emergency Rule.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 11. Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§1125. Small Rural Hospitals

A. - D. ...

E. Low Income and Needy Care Collaboration. Effective for dates of service on or after October 20, 2011, quarterly supplemental payments shall be issued to qualifying non-state acute care hospitals for inpatient services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

b. A Low Income and Needy Care Collaboration Agreement is defined as an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the inpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's inpatient Medicaid billed charges and Medicaid payments the hospital receives for covered inpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

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 35:955 (May 2009), amended 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 will ensure sufficient provider participation in the Hospital Services Program.

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 as it will secure new federal funding to ensure sufficient provider participation which will increase access to Medicaid covered hospital services and may reduce the costs to families for health care services.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, January 29, 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

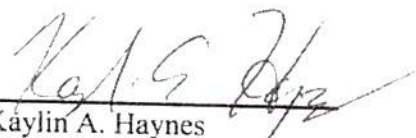
State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
February 4, 2014
1:00 p.m.

RE: Inpatient Hospital Services
Small Rural Hospitals
Low Income Needy Care Collaboration
Docket # 020414-04
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 February 4, 2014 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.


Kaylin A. Haynes
Medicaid Policy and
Compliance

02/04/14
Date

DHH/BHSF PUBLIC HEARING

**Topic – Inpatient Hospital Services – Small Rural Hospitals Low Income and Needy
Care Collaboration
February 4, 2014**

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornetta Scott	State of Louisiana Dept. of Health & Hospitals 628 N. 4th Street Baton Rouge, LA 70802	225-342-3881	DHH
2. Dee Adams	"	"	"
3.			
4.			
5.			
6.			



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

February 5, 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 – Small Rural Hospitals – Low Income and Needy Care Collaboration.

The Department published a Notice of Intent on this proposed Rule in the December 20, 2013 issue of the *Louisiana Register* (Volume 39, Number 12). The public hearing originally scheduled for January 29, 2014, was postponed until February 4, 2014 due to inclement winter weather conditions. Pursuant to R.S. 42:19 et seq., as it relates to cases of extraordinary emergency, written notification of the public hearing postponement was posted at the Department's building location and website, and the Office of the State Register's website, at least twenty-four hours preceding January 29, 2014.

A public hearing was subsequently held on February 4, 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 March 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/JP/KAH

Attachments (3)

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Outpatient Hospital Services Small Rural Hospitals Low Income and Needy Care Collaboration (LAC 50:V.5311, 5511, 5711, 5911 and 6113)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:V.5311, 5511, 5711, 5911, and 6113 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.

In compliance with Act 327 of the 2007 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the reimbursement methodology governing state fiscal year 2009 Medicaid payments to small rural hospitals for outpatient hospital services (*Louisiana Register*, Volume 35, Number 5). The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for outpatient hospital services to provide for a supplemental Medicaid payment to small rural hospitals that enter into an agreement with a state or local governmental entity for the purpose of providing healthcare services to low income and needy patients (*Louisiana Register*, Volume 37, Number 11). The department

promulgated an Emergency Rule which amended the provisions of the October 20, 2011 Emergency Rule in order to clarify the qualifying criteria (*Louisiana Register*, Volume 37, Number 12). This proposed Rule continues the provisions of the December 20, 2011 Emergency Rule.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospital Services

Chapter 53. Outpatient Surgery

Subchapter B. Reimbursement Methodology

§5311. Small Rural Hospitals

A. - B.

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after October 20, 2011, quarterly supplemental payments will be issued to qualifying non-state hospitals for outpatient surgery services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

Non-State Hospital-a hospital which is owned or operated by a private entity.

Low Income and Needy Care Collaboration Agreement-an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the outpatient services rendered during the quarter. Payments shall be distributed quarterly based on Medicaid paid claims for service dates from the previous state fiscal year. Payments to hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program shall be limited to the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period. Aggregate payments to qualifying hospitals shall not exceed the maximum allowable cap for the state fiscal year.

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 35:956 (May 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:2151 (May 2012), LR 40:

Chapter 55. Clinic Services

Subchapter B. Reimbursement Methodology

§5511. Small Rural Hospitals

A. - B. ...

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after October 20, 2011, quarterly supplemental payments will be issued to qualifying non-state hospitals for outpatient hospital clinic services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

Non-State Hospital-a hospital which is owned or operated by a private entity.

Low Income and Needy Care Collaboration Agreement-an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the outpatient services rendered during the quarter. Payments shall be distributed quarterly based on Medicaid paid claims for service dates from the previous state fiscal year. Payments to hospitals participating in the Medicaid DSH Program shall be limited to the difference between the hospital's specific DSH

limit and the hospital's DSH payments for the applicable payment period. Aggregate payments to qualifying hospitals shall not exceed the maximum allowable cap for the state fiscal year.

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 35:956 (May 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:2151 (May 2012), LR 40:

Chapter 57. Laboratory Services

Subchapter B. Reimbursement Methodology

§5711. Small Rural Hospitals

A. - B. ...

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after October 20, 2011, quarterly supplemental payments will be issued to qualifying non-state hospitals for outpatient laboratory services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

Non-State Hospital-a hospital which is owned or operated by a private entity.

Low Income and Needy Care Collaboration Agreement-an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the outpatient services rendered during the quarter. Payments shall be distributed quarterly based on the Medicaid paid claims for services rendered during the quarter. Payments to hospitals participating in the Medicaid DSH Program shall be limited to the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period. Aggregate payments to qualifying hospitals shall not exceed the maximum allowable cap for the state fiscal year.

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 35:956 (May 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:2151 (May 2012), LR 40:

Chapter 59. Rehabilitation Services

Subchapter B. Reimbursement Methodology

§5911. Small Rural Hospitals

A. - B. ...

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after October 20, 2011, quarterly supplemental payments will be issued to qualifying non-state hospitals for outpatient rehabilitation services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

Non-State Hospital-a hospital which is owned or operated by a private entity.

Low Income and Needy Care Collaboration Agreement-an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the outpatient services rendered during the quarter. Payments shall be distributed quarterly based on Medicaid paid claims for service dates from the previous state fiscal year. Payments to hospitals participating in the Medicaid DSH Program shall

be limited to the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period. Aggregate payments to qualifying hospitals shall not exceed the maximum allowable cap for the state fiscal year.

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 35:956 (May 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:2151 (May 2012), LR 40:

Chapter 61. Other Outpatient Hospital Services

Subchapter B. Reimbursement Methodology

§6113. Small Rural Hospitals

A. - B. ...

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after October 20, 2011, quarterly supplemental payments will be issued to qualifying non-state hospitals for services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services, and outpatient facility fees during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

Non-State Hospital-a hospital which is owned or operated by a private entity.

Low Income and Needy Care Collaboration Agreement-an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the outpatient services rendered during the quarter. Payments shall be distributed quarterly based on Medicaid paid claims for service dates from the previous state fiscal year. Payments to hospitals participating in the Medicaid DSH Program shall be limited to the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period. Aggregate payments to qualifying hospitals shall not exceed the maximum allowable cap for the state fiscal year.

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 35:956 (May 2009), amended by the Department of Health

and Hospitals, Bureau of Health Services Financing, LR 38:2151 (May 2012), 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 as it will ensure sufficient provider participation in the Hospital Services Program.

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 as it will secure new federal funding to ensure sufficient provider participation which will increase access to Medicaid covered hospital services and may reduce the costs to families for health care services.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton

Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, January 29, 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

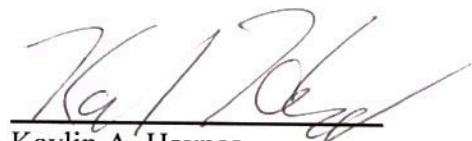
February 4, 2014

1:00 p.m.

RE: Outpatient Hospital Services
Small Rural Hospitals
Low Income Needy Care Collaboration
Docket # 020414-06
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 on February 4, 2014 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.



Kaylin A. Haynes
Medicaid Policy and
Compliance

02/04/14

Date

DHH/BHSF PUBLIC HEARING

Topic – Outpatient Hospital Services – Small Rural Hospitals Low Income and Needy Care Collaboration

February 4, 2014

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornette Scott	State of Louisiana Dept. of Health & Hospitals 628 N. 4th Street Baton Rouge, LA 70802	225-342-3881	DHH
2. Julie Hebert	7th Floor - DHH	225-342-6885	MVA
3. Kandace Faudrueau	3235 Highland Baton Rouge	225-389.1010	SF & LSU
4.			
5.			
6.			

Bobby Jindal
GOVERNOR



Kathy H. Kliebert
SECRETARY

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

February 5, 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 Nursing Facilities – Cost Reports and Specialized Care Reimbursement.

The Department published a Notice of Intent on this proposed Rule in the December 20, 2013 issue of the *Louisiana Register* (Volume 39, Number 12). The public hearing originally scheduled for January 29, 2014, was postponed until February 4, 2014 due to inclement winter weather conditions. Pursuant to R.S. 42:19 et seq., as it relates to cases of extraordinary emergency, written notification of the public hearing postponement was posted at the Department's building location and website, and the Office of the State Register's website, at least twenty-four hours preceding January 29, 2014.

A public hearing was subsequently held on February 4, 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 March 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/JP/CEC

Attachments (3)

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Nursing Facilities
Cost Reports and Specialized Care Reimbursement
(LAC 50:II.20003 and 20027)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:II.20003 and to adopt LAC 50:II.20027 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 848 of the 2006 Regular Session of the Louisiana Legislature directed the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing to adjust individual nursing facility rates quarterly based on the case-mix score for all patients of the nursing facility. Act 824 of the 2006 Regular Session of the Louisiana Legislature mandated that all nursing facilities have a supervised automatic fire sprinkler system and/or a two-hour rated wall and provided for the offset of costs associated with the installation of these systems in Medicaid-certified nursing facilities. In compliance with Acts 848 and 824, the department amended the provisions governing the reimbursement methodology for nursing facilities to allow for a quarterly adjustment of individual

nursing facility rates based on overall case mix and to allow for the offset of installation costs for automatic fire sprinkler systems and two-hour rated walls in Medicaid-certified nursing facilities (*Louisiana Register*, Volume 32, Number 12).

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions of the December 20, 2006 Rule governing nursing facilities in order to redefine and clarify the provisions governing cost reports and the reimbursement methodology (*Louisiana Register*, Volume 39, Number 12). This proposed Rule is being promulgated to continue the provisions of the January 1, 2014 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part II. Nursing Facilities Subpart 5. Reimbursement

Chapter 200. Reimbursement Methodology

§20003. Cost Reports

A. - A.2. ...

3. Separate cost reports must be submitted by central/home offices when costs of the central/home office are reported in the facility's cost report.

4. Repealed.

B. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:467 (June 1984), repealed and promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1473 (June 2002), amended LR 28:1790 (August 2002), LR 28:2537 (December 2002), LR 32:2263 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§20027. Specialized Care Reimbursement

A. A specialized care reimbursement rate shall consist of a nursing facility's Medicaid case-mix reimbursement rate plus an add-on amount. These rates can be established by the department for a specialized care unit.

B. Nursing Facility Specialized Care Unit Reimbursement

1. Effective with the January 1, 2014 rate period, infectious disease (ID) specialized care costs will no longer be reimbursed through a separate per diem add-on payment. ID costs and days will be included in the calculation of the case-mix nursing facility reimbursement rates and the direct care and care-related floor calculation as described under §20005 of this Chapter.

2. Effective with the January 1, 2014 rate period, technologically dependent care (TDC) costs and days will be included in the calculation of the case-mix nursing facility reimbursement rates and the direct care and care-related floor

calculation as described under §20005 of this Chapter. TDC services will continue to be reimbursed through a separate per diem add-on payment. The department will be solely responsible for determining adjustments to the TDC per diem add-on payment.

3. Effective with the January 1, 2014 rate period, Neurological Rehabilitation Treatment Program (NRTP) costs and days for both rehabilitative and complex services will be included in the calculation of the case-mix nursing facility reimbursement rates and the direct care and care-related floor calculation as described under §20005 of this Chapter. NRTP services will be reimbursed through a separate per diem add-on payment. The department will be solely responsible for determining adjustments to the NRTP per diem add-on payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, 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



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

February 5, 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 Professional Services Program – Reimbursement Methodology – Supplemental Payments.

The Department published a Notice of Intent on this proposed Rule in the December 20, 2013 issue of the *Louisiana Register* (Volume 39, Number 12). The public hearing originally scheduled for January 29, 2014, was postponed until February 4, 2014 due to inclement winter weather conditions. Pursuant to R.S. 42:19 et seq., as it relates to cases of extraordinary emergency, written notification of the public hearing postponement was posted at the Department's building location and website, and the Office of the State Register's website, at least twenty-four hours preceding January 29, 2014.

A public hearing was subsequently held on February 4, 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 March 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/JP/KAH

Attachments (3)

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Professional Services Program Reimbursement Methodology Supplemental Payments (LAC 50:IX.15151 and 15153)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt §15151 and §15153 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 provisions in the Professional Services Program to provide supplemental payments to physicians and other eligible professional service practitioners employed by state-owned or operated entities (*Louisiana Register*, Volume 32, Number 6). The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for professional services to provide a supplemental payment to physicians and other professional practitioners employed by, or under contract with, non-state owned or operated governmental entities (*Louisiana Register*, Volume 36, Number 6). In addition, this Emergency Rule also repromulgated the provisions

of the June 20, 2006 Rule in a codified format for inclusion in the *Louisiana Administrative Code*. The department determined that the Emergency Rule to redeclare these provisions was inadvertently omitted from the October 2012 submission to the Office of State Register for publication in the *Louisiana Register*. Therefore, the department promulgated an emergency rule governing the reimbursement methodology for professional services to assure compliance with the technical requirements of R.S. 49:953, and to re-instate the provisions of the July 1, 2010 Emergency Rule governing the Professional Services Program and supplemental payments for physicians and other professional practitioners employed by, or under contract with, non-state owned or operated governmental entities (*Louisiana Register*, Volume 39, Number 2). This proposed Rule is being promulgated to continue the provisions of the July 1, 2010 and February 20, 2013 Emergency Rules.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter F. Supplemental Payments

§15151. Qualifying Criteria - State Owned or Operated

Professional Services Practices

A. In order to qualify to receive supplemental payments, physicians and other eligible professional service practitioners must be:

1. licensed by the State of Louisiana;
2. enrolled as a Louisiana Medicaid provider; and
3. employed by a state-owned or operated entity, such as a state-operated hospital or other state entity, including a state academic health system, which:
 - a. has been designated by the bureau as an essential provider; and
 - b. has furnished satisfactory data to DHH regarding the commercial insurance payments made to its employed physicians and other professional service practitioners.

B. The supplemental payment to each qualifying physician or other eligible professional services practitioner in the practice plan will equal the difference between the Medicaid payments otherwise made to these qualifying providers for professional services and the average amount that would have been paid at the equivalent community rate. The community rate is defined as the average amount that would have been paid by commercial insurers for the same services.

C. The supplemental payments shall be calculated by applying a conversion factor to actual charges for claims paid during a quarter for Medicaid services provided by the state-

owned or operated practice plan providers. The commercial payments and respective charges shall be obtained for the state fiscal year preceding the reimbursement year. If this data is not provided satisfactorily to DHH, the default conversion factor shall equal "1". This conversion factor shall be established annually for qualifying physicians/practitioners by:

1. determining the amount that private commercial insurance companies paid for commercial claims submitted by the state-owned or operated practice plan or entity; and

2. dividing that amount by the respective charges for these payers.

D. The actual charges for paid Medicaid services shall be multiplied by the conversion factor to determine the maximum allowable Medicaid reimbursement. For eligible non-physician practitioners, the maximum allowable Medicaid reimbursement shall be limited to 80 percent of this amount.

E. The actual base Medicaid payments to the qualifying physicians/practitioners employed by a state-owned or operated entity shall then be subtracted from the maximum Medicaid reimbursable amount to determine the supplemental payment amount.

F. The supplemental payment for services provided by the qualifying state-owned or operated physician practice plan will be implemented through a quarterly supplemental payment to providers, based on specific Medicaid paid claim data.

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:

§15153. Qualifying Criteria - Non-State Owned or Operated Professional Services Practices

A. Effective for dates of service on or after July 1, 2010, physicians and other professional service practitioners who are employed by, or under contract with, a non-state owned or operated governmental entity, such as a non-state owned or operated public hospital, may qualify for supplemental payments for services rendered to Medicaid recipients. To qualify for the supplemental payment, the physician or professional service practitioner must be:

1. licensed by the state of Louisiana; and
2. enrolled as a Louisiana Medicaid provider.

B. The supplemental payment will be determined in a manner to bring payments for these services up to the community rate level.

1. For purposes of these provisions, the community rate shall be defined as the rates paid by commercial payers for the same service.

C. The non-state governmental entity shall periodically furnish satisfactory data for calculating the community rate as requested by DHH.

D. The supplemental payment amount shall be determined by establishing a Medicare to community rate conversion factor for the physician or physician practice plan. At the end of each quarter, for each Medicaid claim paid during the quarter, a Medicare payment amount will be calculated and the Medicare to community rate conversion factor will be applied to the result. Medicaid payments made for the claims paid during the quarter will then be subtracted from this amount to establish the supplemental payment amount for that quarter.

E. The supplemental payments shall be made on a quarterly basis and the Medicare to community rate conversion factor shall be recalculated periodically as determined by the department.

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 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.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, January 29, 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



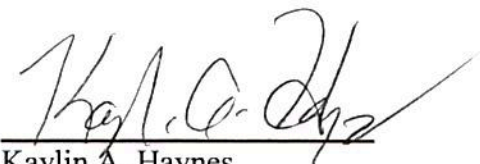
State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
February 4, 2014
1:00 p.m.

RE: Professional Services Program
Reimbursement Methodology
Supplemental Payments
Docket # 020414-07
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 February 4, 2014 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.



Kaylin A. Haynes
Medicaid Policy and
Compliance

02/04/14

Date

DHH/BHSF PUBLIC HEARING

Topic – Professional Services Program – Reimbursement Methodology Supplemental Payments February 4, 2014

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornetta Scott	State of Louisiana Department of Health & Hospitals 628 N. 4th Street Baton Rouge, LA 70802	225-342-3881	DHH
2. Louisa Owen	"	342-9240	"
3.			
4.			
5.			
6.			



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

February 5, 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 State Children's Health Insurance Program – Prenatal Care Services.

The Department published a Notice of Intent on this proposed Rule in the December 20, 2013 issue of the *Louisiana Register* (Volume 39, Number 12). The public hearing originally scheduled for January 29, 2014, was postponed until February 4, 2014 due to inclement winter weather conditions. Pursuant to R.S. 42:19 et seq., as it relates to cases of extraordinary emergency, written notification of the public hearing postponement was posted at the Department's building location and website, and the Office of the State Register's website, at least twenty-four hours preceding January 29, 2014.

A public hearing was subsequently held on February 4, 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 March 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/JP/CEC

Attachments (3)

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

State Children's Health Insurance Program
Prenatal Care Services
(LAC 50:III.20305)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:III.20305 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XXI 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 promulgated a Rule which adopted provisions to expand coverage to children under Title XXI of the Social Security Act by implementing a stand-alone State Children's Health Insurance Program (SCHIP) to provide coverage of prenatal care services to low-income, non-citizen women and to clarify the service limits and prior authorization criteria for SCHIP prenatal care services (*Louisiana Register*, Volume 35, Number 1).

Due to a continuing budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which repealed the provisions governing dental services rendered to

Medicaid eligible pregnant women in order to terminate the program (*Louisiana Register*, Volume 39, Number 1). The department has now determined that it is necessary to amend the provisions governing SCHIP prenatal care services (LaCHIP Phase IV) in order to remove any references to extended dental services for pregnant women since these services have been terminated.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 11. State Children's Health Insurance Program

Chapter 203. LaCHIP Phase IV - Prenatal Care Services

§20305. Services

A. Covered Services. Recipients shall receive coverage of pregnancy-related health care services and associated medically necessary services for conditions that, if not treated, would complicate the pregnancy. Pregnancy-related health care services which may be covered include:

1. - 11. ...
12. case management services;
13. physical therapy, occupational therapy and services for individuals with speech, hearing and language disorders;
14. medical transportation services; and

15. any other medically necessary medical, diagnostic, screening, preventive, restorative, remedial, therapeutic or rehabilitative services.

16. Repealed.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI 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 35:72 (January 2009), 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 no impact on family functioning, stability or autonomy as described in R.S. 49:972 as the provisions governing dental services for pregnant women were repealed in a prior Emergency Rule.

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 as the provisions governing dental services for pregnant women were repealed in a prior Emergency Rule.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, January 29, 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

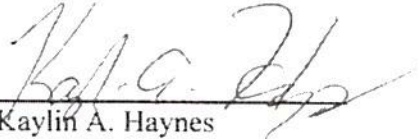
State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
February 4, 2014
1:00 p.m.

RE: State Children's Health Insurance Program
Prenatal Care Services
Docket # 020414-08
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 February 4, 2014 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.



Kaylin A. Haynes
Medicaid Policy and
Compliance

02/04/14

Date

Bobby Jindal
GOVERNOR



Kathy H. Kliebert
SECRETARY

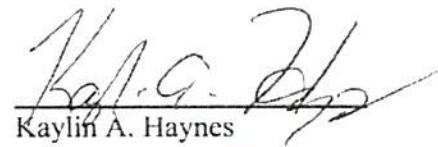
State of Louisiana
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DHH/BHSF PUBLIC HEARING

Topic - State Children's Health Insurance Program Prenatal Care Services

February 4, 2014

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornette Scott	State of Louisiana Dept. of Health & Hospitals 628 N. 4th Street Baton Rouge, LA 70802	225-342-3881	DHH
2.			
3. Coburn, Lisa	3911	225-6941	DHH
4.			
5.			
6.			

DHH/BHSF PUBLIC HEARING

Topic - State Children's Health Insurance Program Prenatal Care Services

February 4, 2014

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornette Scott	State of Louisiana Dept. of Health & Hospitals 628 N. 4th Street Baton Rouge, LA 70802	225-342-3881	DHH
2. Deborah Davis	DHH	302-0941	DHH
3.			
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