




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

May 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 – Recipient Participation.

The Department published a Notice of Intent on this proposed Rule in the March 20, 2014 issue of the *Louisiana Register* (Volume 40, Number 3). A public hearing was held on April 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 June 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

Coordinated Care Network Recipient Participation (LAC 50:I.3103 and 3105)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:I.3103 and 3105 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 now proposes to amend the provisions governing coordinated care networks to permit certain individuals who receive waiver services authorized under the provisions of 1915(b) and 1915(c) of the Social Security Act, and Medicaid eligible children identified in the *Melanie Chisholm, et al vs. Kathy Kliebert* class action litigation

(hereafter referred to as *Chisholm* class members) to have the option of voluntarily enrolling into a participating health plan under the BAYOU HEALTH Program. This proposed Rule will also require mandatory enrollment of certain recipients who receive hospice services. Recipients who enroll with a health plan will have their acute care and other Medicaid covered services coordinated through the BAYOU HEALTH Program.

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.c. ...

d. uninsured women under the age of 65 who have been screened through the Centers for Disease Control National Breast and Cervical Cancer Early Detection Program and identified as being in need of treatment for breast and/or cervical cancer, including pre-cancerous conditions and early stage cancer, and are not otherwise eligible for Medicaid;

e. ...

f. Reserved.

2. ...

a. individuals and families who have more income than is allowed for Medicaid eligibility, but who meet the standards for the Regular Medically Needy Program; and

3. individuals receiving hospice services who are not otherwise excluded because of their status as a Medicare dual eligible recipient, or a resident of a long-term care facility (nursing facility or intermediate care facility for persons with intellectual disabilities).

B. Voluntary Participants

1. Participation in a CCN is voluntary for:

a. - a.i. ...

ii. an Indian health program or urban Indian program operated by a tribe or tribal organization under a contract, grant, cooperative agreement or compact with the Indian Health Service;

b. - b.iv. ...

v. enrolled in the Family Opportunity Act Medicaid Buy-In Program;

c. individuals who receive home and community-based waiver services; and

d. children under the age of 21 who are listed on the New Opportunities Waiver Request for Services Registry. These children are identified as *Chisholm* class members.

i. For purposes of these provisions, Chisholm class members shall be defined as those children identified in the *Melanie Chisholm, et al vs. Kathy Kliebert* (or her successor) class action litigation.

2. Chisholm class members and home and community-based waiver recipients shall be exempt from the auto-assignment process and must proactively seek enrollment into an available health plan.

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. are both Medicare and Medicaid recipients;

b. reside in a long-term care facility (nursing facility or intermediate care facility for persons with intellectual disabilities);

c. receive services through the Program of All-Inclusive Care for the Elderly (PACE);

d. have a limited period of eligibility such as eligibility through the Spend-down Medically Needy Program or Emergency Services Only;

e. are participants in the Take Charge Family Planning Waiver Program;

f. are eligible through the Tuberculosis Infected Individual Program; or

g. are enrolled in the Louisiana Health Insurance Premium Payment (LaHIPPP) Program.

D.1.h. - D.1.j. Repealed.

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:

§3105. Enrollment Process

A. - D.2. ...

E. Selection of a CCN

1. - 2. ...

a. Recipients who fail to choose a CCN shall be automatically assigned to a CCN by the enrollment broker and the CCN shall be responsible to assign the member to a PCP if a PCP is not selected at the time of enrollment into the CCN.

i. Recipients of home and community-based services and *Chisholm* class members shall be exempt from automatic assignment to a CCN.

3. - 4.b. ...

c. Recipients who fail to make a selection will be automatically assigned to a participating CCN in their area, with the exception of recipients of home and community-based services and *Chisholm* class members.

4.d. ...

F. Automatic Assignment Process

1. ...

a. mandatory CCN participants that fail to select CCN and voluntary participants that do not exercise their option not to participate in the CCN program within the minimum 30 day window, with the exception of recipients of home and community-based services and *Chisholm* class members;

F.1.b. - I.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1574 (June 2011), amended LR 40:310 (February 2014), 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 providing families with better coordination of their health care and increasing the quality and continuity of care for the individual and the entire family.

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 through better coordinated health care services and increased continuity of care.

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 Thursday, April 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

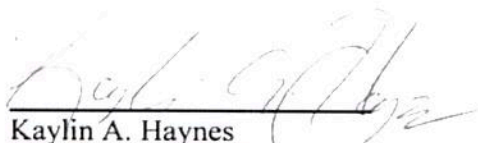
PUBLIC HEARING CERTIFICATION

April 24, 2014
9:30 a.m.

RE: Coordinated Care Network
Recipient Participation
Docket # 042414-03
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 April 24, 2014 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.



Kaylin A. Haynes
Medicaid Policy and
Compliance

04/24/14 _____
Date

DHH/BHSF PUBLIC HEARING

Topic – Coordinated Care Network – Recipient Participation

April 24, 2014

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornette Scott <i>Cornette Scott</i>	State of Louisiana Department of Health & Hospitals 628 N. 4 th Street Baton Rouge, LA 70802	225-342-3881	DHH
2. <i>Brenda Group</i>	11	342-8883	DHH-DCDD
3.			
4.			
5.			
6.			




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

May 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 Family Planning Services.

The Department published a Notice of Intent on this proposed Rule in the March 20, 2014 issue of the *Louisiana Register* (Volume 40, Number 3). A public hearing was subsequently held on April 24, 2014 at which only Department of Health and Hospitals staff were present. One member of the public who attended an earlier hearing signed the attendance roster for this notice, but did not stay for this hearing. Written comments were received from Ms. Holly Turner regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the June 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. comments from Ms. Holly Turner; and
5. agency response to Ms. Holly Turner.

KHK/WJR/RKA

Attachments (5)

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Family Planning Services
(LAC 50:XV.Chapters 251-257)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:XV.Chapters 251-257 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.

Section 2303 of the Affordable Care Act (ACA) provides states with the option to cover family planning services and supplies under their Medicaid State Plan to individuals who were previously ineligible for Medicaid coverage of these services, with the exception of those individuals who were eligible through the state's Section 1115 Demonstration Family Planning Waiver.

Pursuant to Section 2303 of ACA, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt provisions to establish a new optional eligibility group under the Medicaid State Plan to provide coverage for family planning services and supplies. Family planning state plan services shall be available to eligible men and non-pregnant women.

Title 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 17. Family Planning Services

Chapter 251. General Provisions

§25101. Purpose

A. Effective July 1, 2014, the Medicaid Program shall provide coverage of family planning services and supplies under the Medicaid State Plan, to a new targeted group of individuals who are otherwise ineligible for Medicaid. This new optional coverage group will also include individuals currently receiving family planning services through the Section 1115 demonstration waiver, Take Charge Program, at the time the new family planning state plan option becomes effective.

B. The primary goals of family planning services are to:

1. increase access to services which will allow management of reproductive health;
2. reduce the number of unintended pregnancies; and
3. reduce Medicaid expenditures for prenatal and delivery related services for women in the targeted population.

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:

Chapter 253. Eligibility Criteria

§25301. Recipient Qualifications

A. Recipients who qualify for family planning services in the new categorically needy group include men and women of any age who meet the following criteria:

1. women who are not pregnant; and
2. have income at or below 214 percent of the federal poverty level; or
3. women who would have been eligible for the approved Section 1115 family planning demonstration waiver, Take Charge Program.

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

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

Chapter 255. Services

§25501. Covered Services

A. Family planning services are services and supplies that prevent or delay pregnancy. Medicaid covered family planning services include:

1. four office visits per year for physical examinations or necessary re-visits as it relates to family planning and birth control;
2. counseling, education, follow-ups and referrals;

3. laboratory examinations and tests for the purposes of family planning; and

4. pharmaceutical supplies and devices to prevent conception, including:

a. all methods of contraception approved by the Federal Food and Drug Administration;

b. male and female sterilization procedures provided in accordance with 42 CFR 441, Subpart F; and

c. natural family planning.

C. Family planning-related services may be provided when conducted as part of a visit for the purpose of delivering family planning services or as a follow-up to a visit for the purpose of delivering family planning services. Medicaid covered family planning-related services include:

1. diagnostic procedures and treatment of sexually-transmitted diseases and infections;

2. annual family planning visits for women of child bearing age, men and teens, which may include:

a. a comprehensive patient history;

b. physical;

c. laboratory tests; and

d. contraceptive counseling; and

3. transportation services.

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

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

§25503. Service Delivery

A. Family planning services may be delivered through any
enrolled Medicaid provider whose scope of practice includes
family planning services.

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

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

Chapter 257. Reimbursement

§25701. Reimbursement Methodology

A. All Medicaid providers, including federally qualified
health centers, rural health clinics and tribal 638 facilities,
shall be reimbursed according to the established fee-for-service
rates published in the Medicaid fee schedule for family planning
services.

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

HISTORICAL NOTE: Promulgated by the Department of Health
and Hospitals, 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, Center for 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 family planning 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 on families for family planning services and supplies.

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 Thursday, April 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



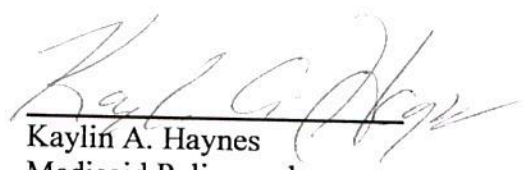
State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

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

RE: Family Planning Services
Docket # 042414-04
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 April 24, 2014 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.



Kaylin A. Haynes
Medicaid Policy and
Compliance

04/24/14

Date

DHH/BHSF PUBLIC HEARING

Topic – Family Planning Services

April 24, 2014

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornette Scott <i>Cornette Scott</i>	State of Louisiana Department of Health & Hospitals 628 N. 4 th Street Baton Rouge, LA 70802	225-342-3881	DHH
2.			
3. <i>Holly Turner</i>	<i>Austin 78735</i> <i>9005 Thicketts Lane</i>	<i>512-417-3329</i>	<i>Merck</i>
4.			
5.			
6.			

Lalauni Williams

From: Darlene Adams
Sent: Tuesday, March 18, 2014 12:10 PM
To: Lalauni Williams
Cc: Rene Huff; Lou Ann Owen
Subject: FW: LA Register - Notice of Intent - Question about Proposed Rules Related to Family Planning

Lalauni:

Please consult with Tara DiSandro (copy to Jeanne Levelle) on drafting the appropriate response to the questions below and send to me for review as soon as possible.

Thanks.

Dee M. Adams
Section Chief

DHH Bureau of Health Services Financing
Medicaid Policy and Compliance Section

- Medicaid Policy & Compliance
- Administrative Rulemaking & State Plan Activity
- Tribal Liaison & Notifications
- Communications & Web Publications
- Provider Manuals & Global Administrative Issues
- Legislative Management
- Surveys & Record Retention
- Medical Care Advisory Committee

Room 744

Office: (225) 342-1325

Cell: (225) 573-8343

Fax: (225) 376-4737

Darlene.Adams@la.gov



"There are no mistakes, no coincidences . . .
All events are blessings we are given to learn from and to build character."

From: Ruth Kennedy (DHH-MVA)
Sent: Tuesday, March 18, 2014 11:36 AM
To: Darlene Adams
Subject: Fwd: LA Register - Notice of Intent - Question about Proposed Rules Related to Family Planning

Begin forwarded message:

From: "Turner, Holly Jacques" <holly.turner@merck.com>
Date: March 18, 2014 at 10:09:02 AM CDT
To: "Ruth Kennedy (DHH-MVA)" <Ruth.Kennedy@LA.GOV>
Cc: "Turner, Holly Jacques" <holly.turner@merck.com>, "Sillas, Karen" <k.sillas@merck.com>, "rgee@lsuhsc.edu" <rgee@lsuhsc.edu>, Michelle Alletto <Michelle.Alletto@LA.GOV>
Subject: LA Register - Notice of Intent - Question about Proposed Rules Related to Family Planning

Ruth:

I noticed in the March 20th issue of the *LA Register* that DHH posted a notice of intent to roll the Women's Health Family Planning Waiver Program Take Charge into the Medicaid Program.

I have a few questions that I am hoping that you can help me with. If not, please refer me to someone else at DHH.

How many women will transition from the Take Charge Program to LA Medicaid?
Will the Take Charge Program end once the women in this program move to Medicaid? If so, what date do you anticipate that happening.
Will the women that were in the Take Charge Program now have access to all of the benefits available to Medicaid clients?

<http://www.doa.louisiana.gov/osr/reg/1403/1403.pdf>

Thank you for your assistance.

Holly

Holly Jacques Turner
Merck
Associate Director, State Government Affairs (LA, OK, TX)
(512)417-3328 Mobile
holly_turner@merck.com

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From: Lalauni Williams
To: ["holly.turner@merck.com"](mailto:holly.turner@merck.com)
Subject: RE: LA Register - Notice of Intent - Question about Proposed Rules Related to Family Planning
Date: Monday, March 31, 2014 1:33:00 PM
Attachments: [image001.png](#)

Good afternoon Ms. Turner:

On March 18, 2014, you emailed questions regarding the Family Planning Services Notice of Intent published in the March 20, 2014 edition of the *Louisiana Register*. Responses to each question are in blue font below.

Should you have any questions or comments regarding Medicaid administrative rulemaking activity, please contact me at 225-342-3238 or by email to LaLauni.Williams@la.gov.

Thank you.

LaLauni Williams

Medicaid Program Manager
Rulemaking Unit
Medicaid Policy and Compliance Section
225-342-3238 – Direct
LaLauni.Williams@la.gov – Email

*Work Hours: M – F, 7:00 a.m. – 3:30 p.m.



From: "Turner, Holly Jacques" <holly.turner@merck.com>
Date: March 18, 2014 at 10:09:02 AM CDT
To: "Ruth Kennedy (DHH-MVA)" <Ruth.Kennedy@LA.GOV>
Cc: "Turner, Holly Jacques" <holly.turner@merck.com>, "Sillas, Karen" <k.sillas@merck.com>, "rgee@lsuhsc.edu" <rgee@lsuhsc.edu>, Michelle Alletto <Michelle.Alletto@LA.GOV>
Subject: LA Register - Notice of Intent - Question about Proposed Rules Related to Family Planning
Ruth:

I noticed in the March 20th issue of the LA Register that DHH posted a notice of intent to roll the Women's Health Family Planning Waiver Program Take Charge into the Medicaid Program.

I have a few questions that I am hoping that you can help me with. If not, please refer me to someone else at DHH.

How many women will transition from the Take Charge Program to LA Medicaid?

All women. In the State Medicaid Director (SMD) letter #10-013 issued on July 2, 2010, it is explained by the Centers for Medicare and Medicaid Services (CMS) that the new State Plan

Option allows states the choice to either continue serving this population under the Demonstration Waiver or to shift the population from the waiver to the Medicaid State Plan. The waiver currently has 73, 594 enrolled eligibles.

Will the Take Charge Program end once the women in this program move to Medicaid?
Yes.

If so, what date do you anticipate that happening.

The CMS has been notified by the State that it's anticipated closure date for the waiver is June 30, 2014 and an effective date for the State Plan Option on July 1, 2014.

Will the women that were in the Take Charge Program now have access to all of the benefits available to Medicaid clients?

No. The SMD letter #10-013 explains that the new State plan family planning optional group is intended to serve persons who are not Medicaid eligible.

<http://www.doa.louisiana.gov/osr/reg/1403/1403.pdf>

Thank you for your assistance.

Holly

Holly Jacques Turner

Merck

Associate Director, State Government Affairs (LA, OK, TX)

(512)417-3328 Mobile

holly_turner@merck.com

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

May 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 *Approved for*

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 – Freedom of Choice.

The Department published a Notice of Intent on this proposed Rule in the March 20, 2014 issue of the *Louisiana Register* (Volume 40, Number 3). A public hearing was held on April 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 June 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 and
Office of Aging and Adult Services**

**Home and Community-Based Services Waivers
Freedom of Choice
(LAC 50:XXI.Chapter 1)**

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to adopt LAC 50:XXI.Chapter 1 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 of Aging and Adult Services propose to amend the provisions governing home and community-based services waivers in order to adopt provisions for the removal of service providers from the waiver freedom of choice list when certain departmental proceedings are pending against the provider, and to offer freedom of choice to the provider's waiver participants.

**Title 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XXI. Home and Community Based Services Waivers
Subpart 1. General Provisions

Chapter 1. Freedom of Choice**

§101. General Provisions

A. The Department of Health and Hospitals may remove a service provider from the waiver provider freedom of choice list and offer freedom of choice to waiver participants when:

1. one or more of the following departmental proceedings are pending against a waiver participant's service provider:

a. revocation of the provider's home and community-based services license;

b. exclusion from the Medicaid Program;

c. termination from the Medicaid Program; or

d. withholding of Medicaid reimbursement as authorized by the Department's Surveillance and Utilization Review (SURS) Rule (LAC 50:I.Chapter 41);

2. the service provider fails to timely renew its home and community-based services license as required by the Home and Community-Based Services Providers Licensing Standards Rule (LAC 48:I.Chapter 50); or

3. the Louisiana Attorney General's Office has seized the assets of the service provider.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, 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 or autonomy as described in R.S. 49:972 by ensuring the integrity of waiver participants' freedom of choice in the selection of available qualified service providers.

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 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 Thursday, April 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

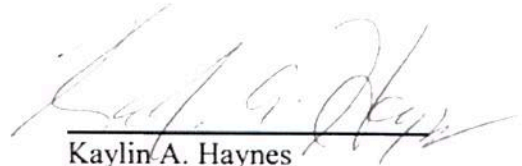
PUBLIC HEARING CERTIFICATION

**April 24, 2014
9:30 a.m.**

RE: Home and Community-Based Services Waivers
Freedom of Choice
Docket # 042414-05
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 April 24, 2014 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.



Kaylin A. Haynes
Medicaid Policy and
Compliance

04/24/14

Date

DHH/BHSF PUBLIC HEARING

Topic – Home & Community-Based Services Waivers Freedom of Choice

April 24, 2014

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornette Scott <i>Cornette Scott</i>	State of Louisiana Department of Health & Hospitals 628 N. 4 th Street Baton Rouge, LA 70802	225-342-3881	DHH
2.			
3. <i>Quelley</i>	<i>DHH</i>	<i>504-219-6225</i>	<i>DHH/GMS</i>
4.			
5.			
6.			



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

May 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 Inpatient Hospital Services – Coverage of Long-Acting Reversible Contraceptives.

The Department published a Notice of Intent on this proposed Rule in the March 20, 2014 issue of the *Louisiana Register* (Volume 40, Number 3). A public hearing was held on April 24, 2014. Written correspondence was received from Ms. Melissa Goldin regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the June 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. comments from Ms. Melissa Goldin; and
5. response to Ms. Melissa Goldin.

KHK/WJR/KAH

Attachments (5)

NOTICE OF INTENT
Department of Health and Hospitals
Bureau of Health Services Financing

Inpatient Hospital Services
Coverage of Long-Acting Reversible Contraceptives
(LAC 50:V.113)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:V.113 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 provides Medicaid coverage and reimbursement for inpatient hospital services. Participating hospitals are reimbursed a daily per diem rate that includes all inpatient services rendered to Medicaid eligible individuals.

The department now proposes to amend the provisions governing the reimbursement methodology for inpatient hospital services to establish Medicaid reimbursement for long-acting reversible contraceptive (LARC) devices provided to women in the hospital after the delivery of an infant(s). Coverage of LARC devices during the hospital stay ensures that Medicaid eligible women will have access to long-acting contraceptives immediately following childbirth.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services
Subpart 1. Inpatient Hospitals

Chapter 1. General Provisions

§113. Coverage of Long-Acting Reversible Contraceptives

A. The Medicaid Program shall provide reimbursement to acute care hospitals for long-acting reversible contraceptives (LARCs) provided to women immediately following childbirth and during the hospital stay.

B. Reimbursement. Hospitals shall be reimbursed for LARCs as an add-on service in addition to their daily per diem rate for the inpatient hospital stay.

1. Physicians/professional practitioners who insert the device will also be reimbursed an insertion fee in accordance with the reimbursement rates established for this service in the Professional Services Program.

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

HISTORICAL NOTE: Promulgated by the Department of Health 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-term birth control after childbirth.

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 costs to women and their families for long-term birth control after childbirth.

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 Thursday, April 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



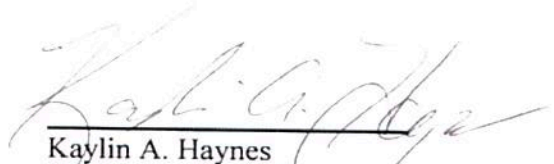
State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

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

RE: Inpatient Hospital Services
Coverage of Long-Acting Reversible Contraceptives
Docket # 042414-07
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 April 24, 2014 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.



Kaylin A. Haynes
Medicaid Policy and
Compliance

04/24/14

Date

DHH/BHSF PUBLIC HEARING

Topic – Inpatient Hospital Services – Coverage of Long-Acting Reversible Contraceptives
April 24, 2014

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornette Scott <i>Cornette Scott</i>	State of Louisiana Department of Health & Hospitals 628 N. 4 th Street Baton Rouge, LA 70802	225-342-3881	DHH
2.			
3.			
4.			
5.			
6.			

1514 Joseph St
New Orleans, LA 70115
April 21, 2014

J. Ruth Kennedy
Bureau of Health Services Financing
P.O. Box 91030
Baton Rouge, LA 70821-9030

RE: Notice of Intent: Louisiana Register Vol. 40, No. 03 March 20, 2014
Chapter 1. General Provisions, §113. Coverage of Long-Acting Reversible

Dear Ms. Kennedy,

It is with gratification that I write you in full support of immediate postpartum insertion of long-acting reversible contraceptives (LARCs) for Medicaid patients.

More than half (51%) of all pregnancies in the United States are unintended, and in Louisiana in 2008, 63% of all pregnancies were unintended. Unintended pregnancies are associated with the late initiation of prenatal care, adverse health outcomes for the infant and mother, and increased socioeconomic strains on the mother and her family. Low-income women have five times the unintended pregnancy rate of women with incomes greater than 200% FPL. Most births resulting from unintended pregnancies are publically funded (65% nationally, vs. 80% in Louisiana). This translates into each birth resulting from an unintended pregnancy in Louisiana cost \$501 in public funds, compared to \$201 per woman nationally.

The health, social, and economical costs of unintended pregnancies in this great state can be reduced by accessible and affordable contraceptive use, specifically methods that are easy to use. In other words, user error greatly impacts effectiveness level. LARCs are the ideal method for reducing the risk of unintended pregnancy. Failure rates from both perfect and typical use of LARCs are less than 1% within the first year of use. Conversely, 9% of women using oral contraceptives, the most widely used form of contraception, unintentionally become pregnant within the first year of use. Furthermore, one-third of women that use oral contraceptives discontinue use within a year, and have been shown to subsequently switch to a less effective method or to no method at all, putting themselves at even greater risk for an unintended pregnancy. Once inserted, a LARC requires no user attention and can remain in place for 3-10 years, depending on the specific method. Based on their failure rates, associated adverse events, and cost of unintended pregnancies over a five year period, IUDs are the most cost-effective methods of contraception in the United States.

Removing the accessibility and financial barriers by offering a LARC to a woman immediately after she has given birth, and reimbursing her provider, will improve a woman and her family's health by reducing her odds of having a closely spaced subsequent pregnancy and/or an unintentional pregnancy.

Sincerely,
Melissa Goldin



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

May 5, 2014

Melissa Goldin
1514 Joseph Street
New Orleans, LA 70115

Dear Ms. Goldin:

**RE: Inpatient Hospital Services – Coverage of Long-Acting Reversible Contraceptives
Notice of Intent**

This letter is in response to your correspondence dated April 21, 2014 regarding the Inpatient Hospital Services – Coverage of Long-Acting Reversible Contraceptives Notice of Intent which was published in the March 20, 2014 edition of the *Louisiana Register*.

The Notice of Intent proposes to amend the provisions governing the reimbursement methodology for inpatient hospital services to establish Medicaid reimbursement for long-acting reversible contraceptive (LARC) devices provided to women in the hospital after the delivery of an infant(s). Your comments in support of these provisions have been reviewed and are greatly appreciated.

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 improve health care outcomes for Louisiana citizens.

Should you have any questions or comments regarding Medicaid administrative rulemaking activity, you may contact Lalauni Williams, Rulemaking Unit Manager, at (225) 342-3238, or by email to Lalauni.Williams@la.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Ruth Kennedy".

J. Ruth Kennedy
Medicaid Director

JRK/DMA/LLW

c: Derek Stafford
Jennifer Stevens
Gail Williams



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

May 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 *[Signature]*

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 Hospital Licensing Standards - Alternative Birthing Units.

The Department published a Notice of Intent on this proposed Rule in the March 20, 2014 issue of the *Louisiana Register* (Volume 40, Number 3). A public hearing was subsequently held on April 24, 2014 at which only Department of Health and Hospitals staff were present. Several members of the public who attended an earlier hearing signed the attendance roster for this notice, but did not stay for this hearing. No written comments were received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the June 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

Hospital Licensing Standards
Alternative Birthing Units
(LAC 48:I.9551-9567)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 48:I.9551-9567 in the Medical Assistance Program as authorized by R.S. 36:254 and 40:2100-2115. 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 amended the provisions governing hospital licensing standards to clarify the renewal process of a license that is under revocation, and to allow hospitals to contract with providers for outside dietary services (*Louisiana Register*, Volume 38, Number 6). The department now proposes to amend the provisions governing hospital licensing standards to adopt provisions for alternative birthing units within hospitals.

Title 48

PUBLIC HEALTH-GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 95. Hospitals

Subchapter U. Alternative Birthing Units

§9551. General Provisions

A. An Alternative Birthing Unit (ABU) is a unit that is housed within a licensed hospital that provides both obstetrical

and neonatal intensive care unit (NICU) level one status at that location. The ABU shall be its own designated unit, separate and apart from any other unit within the hospital.

B. An ABU shall be in compliance with the:

1. American Midwifery Certification Board;
2. American Academy of Pediatrics; and
3. American College of Obstetrics and Gynecology guidelines.

C. An ABU shall be in compliance with all federal, state and local statutes, laws, rules, regulations and ordinances as applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9553 Definitions

Active Labor-contractions resulting in progressive effacement and dilation of the cervix.

Alternative Birthing Unit (ABU)-a unit located within a hospital in which delivery is expected following a low risk, normal, and uncomplicated pregnancy. Care and services provided prior to, during, and following childbirth are under the direction of a certified nurse midwife.

Antepartum Care (Prenatal Care)-occurring or existing before birth. The prenatal period (also known as antenatal care) refers to the regular medical and nursing care recommended for women during pregnancy. Prenatal care is a type of preventative care with the goal of providing regular check-ups that allow doctors or certified nurse midwives to treat and prevent potential health problems throughout the course of the pregnancy.

Certified Nurse Midwife (CNM)-an advanced practice registered nurse educated in the disciplines of nursing and midwifery and certified according to a nationally recognized certifying body, such as the American College of Nurse Midwives Certification Council, as approved by the Board, and who is authorized to manage the nurse midwifery care of newborns and women in the antepartum, intrapartum, postpartum and/or gynecological periods pursuant to Title 46, Part XLVII, Chapter 45, §4503 B.1 et seq.

Complications-any condition as defined by the medical staff/governing body that contraindicates continued care in the alternative birthing center.

Doula-a nonmedical person, certified by Doula of North America (DONA) who assists a woman before, during or after childbirth, as well as her partner and/or family, by providing information, physical assistance and emotional support.

Family-individuals selected by the pregnant woman to be present and/or in attendance during her admission to the ABU.

Intrapartum-the period beginning with active labor to the expulsion of the placenta.

Licensed Practitioner-for purposes of this Rule refers to a licensed physician and/or a certified nurse midwife.

Low Risk Pregnancy-a normal uncomplicated term pregnancy as determined by a generally accepted course of prenatal care. The expectation of a normal uncomplicated birth as shall be defined by the medical staff/governing body.

Medical Director-a physician licensed to practice medicine by the Louisiana State Board of Medical Examiners (LSBME), who is board certified as an obstetrician and gynecologist (OB/GYN) and credentialed and privileged for the hospital's obstetrical/gynecological services.

Postmature-gestational age of greater than 42 weeks.

Postpartum-the period beginning immediately after childbirth.

Preterm-prior to the 37th week of gestation.

Term-gestational age of greater or equal to 37 weeks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9555. Program Requirements

A. An ABU shall have policies/procedures and written criteria for the evaluation of risk status, admission, transfer, discharge, and complications requiring medical or surgical intervention. The policies/procedures and written criteria shall be developed, implemented, enforced, monitored, and reviewed annually by the clinical staff and approved by the governing body.

1. In order for a pregnant woman to be admitted to an ABU, the following admission requirements must be met.

a. The pregnancy shall be deemed low-risk by the licensed practitioner with the expectation of a singleton, vertex, and spontaneous vaginal birth at term without complication.

b. The pregnant woman shall have had consistent prenatal care which began no later than 28 weeks gestation with consistent prenatal screening.

c. A maternal/fetal assessment performed by the CNM shall be completed and documented within one hour of admission to the ABU.

2. The facility shall have policies and procedures readily available in the event the condition of the mother and/or newborn require transfer to an acute care unit within the hospital or emergent transfer to another hospital.

3. The facility shall have policies and procedures for discharge planning of the mother and newborn.

B. A patient who meets any of the following criteria/conditions shall not be admitted for delivery in an ABU:

1. females below 18 years of age;
2. a patient with any of the below documented condition(s) in the maternal medical history, based on an assessment by a licensed practitioner:
 - a. cardiovascular disease;
 - b. pulmonary disease and/or history of pulmonary embolus;
 - c. renal disease;
 - d. insulin-dependent diabetes;
 - e. bleeding disorder or hemolytic disease;
 - f. fetal malpresentation;
 - g. placenta previa;
 - h. preeclampsia;
 - i. oligohydramnios;
 - j. polyhydramnios;
 - k. ruptured membranes greater than 18 hours prior to onset of labor;
 - l. previous Rh sensitization;
 - m. vaginal birth following C-section (VBAC);

- n. multiple births;
- o. preterm labor;
- p. post-maturity; or
- q. fetal abnormality; or

3. a patient with a high risk pregnancy as determined by a licensed practitioner.

C. The following services shall be prohibited in the ABU:

- 1. general, intravenous, and/or conductive analgesia/anesthesia to include spinal and epidural analgesia/anesthesia;
- 2. conscious sedation;
- 3. caesarean sections and operative obstetrics to include tubal ligations;
- 4. stimulation or augmentation with chemical agents, e.g., oxytocin during the first and second stages of labor; and
- 5. vacuum extractors and/or forceps.

D. Prenatal Screening Requirements

1. Pregnant women shall be screened by either/or an OB/GYN, a Certified Nurse Midwife (CNM), or an Advanced Practice Registered Nurse (APRN). Documentation of the screening shall include, but not be limited to:

a. social, family, medical, reproductive, nutritional, drug and alcohol use;

b. violence screen, depression screen and mental health history;

c. physical examination to include Papanicolaou smear and assessment for sexually transmitted diseases as determined by a licensed practitioner;

d. a prenatal laboratory profile to include a:

- i. complete blood count, blood type and Rh antibody screen;
- ii. glucose tolerance test;
- iii. urinalysis; and
- iv. other diagnostic testing as medically indicated; and

e. a repeat evaluation of the hemoglobin or hematocrit between 28 and 36 weeks gestation.

E. Newborn Requirements. The ABU shall be in compliance with current state laws, rules and regulations for screening of newborn health conditions.

F. Patient and/or Patient's Family Educational Requirements. The following educational programs are required to be completed by the patient and/or patient's family as determined by the policy and procedures of the ABU prior to discharge:

1. anticipated physiological and psychological changes during pregnancy;

2. fetal development;
3. normal nutrition;
4. warning signs of pregnancy complications;
5. self-care to include:
 - a. information on the dangers of smoking,
alcohol and substance abuse; and
 - b. the need for dental care;
6. stages of labor;
7. non-pharmacologic techniques to promote comfort
and relaxation during labor;
8. delivery process;
9. newborn care;
10. normal postpartum;
11. bonding;
12. breast-feeding;
13. importance of immunization;
14. criteria for discharge from the center;
15. child safety to include the use of car seats and
safe sleeping practices;
16. directions for obtaining laboratory tests for
newborns as required by the Department of Health and Hospitals;
17. instruction as to the clothing/supplies needed at
the time of discharge from the center; and
18. a family instructional program.

G. In order for the family to participate in the birth process in the ABU, the following requirements shall be met.

1. The number of individuals/family members present at the time of birth shall be determined by the ABU's policy which takes into account room size and the need for infection control.

2. Individuals/family members shall abide by the facility's infection control policies.

3. An adult not involved in the birthing process shall be in charge of all minor children.

4. Only service animals shall be allowed in the ABU.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9557. Policies and Procedures

A. An ABU shall develop, implement, enforce, monitor, and review annually the policies and procedures specific to the care and services of the mother and newborn. The policies and procedures shall be jointly developed by the medical director and professional staff and adopted by the governing body. These policies and procedures shall include, but are not limited to:

1. staffing;
2. admission criteria;

3. educational services;
4. consent for medical treatment and care;
5. initial and continuing risk assessment by the
CNM;
6. criteria for consultation with collaborative
physicians;
7. water birth;
8. external fetal monitoring (EFM);
9. nursing assessments;
10. medication administration;
11. laboratory and diagnostic services;
12. dietary services;
13. obstetric and pediatric consultation services;
14. newborn care, including:
 - a. pulse oximetry heart disease screening; and
 - b. circumcision of a male newborn by a licensed
OB/GYN or other qualified physician as determined by the
governing body;
15. emergency procedures for the mother and/or
newborn, including:
 - a. maternal emergent care policy;
 - b. newborn emergent care policy;
 - c. maternal transfer to an acute care unit
within the hospital or transfer to another hospital;

- d. newborn transfer to an acute care unit within the hospital or transfer to another hospital;
 - e. precipitous delivery; and
 - f. newborn abduction;
16. family support and participation, including:
- a. criteria for labor and delivery attendance;
- and
- b. doula;
17. unique identification for mother and newborn;
18. delivery log;
19. mother/baby couplet aftercare, including:
- a. lactation support services;
 - b. social services; and
 - c. home health care services, if applicable;
20. maternal and newborn discharge, including:
- a. length of stay; and
 - b. child passenger restraint system;
21. follow-up postpartum and newborn care; and
22. hospital staff on call policy and procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9559. Physical Environment

A. An ABU shall submit, meet, and obtain approval for facility plan review from the Office of State Fire Marshall prior to construction.

1. An ABU shall:

- a. consist of a minimum of two birthing rooms and one examination room;
- b. be located to ensure privacy;
- c. be located out of the path of unrelated traffic; and
- d. be under the direct supervision of the unit staff.

2. Birthing rooms shall:

- a. be single occupancy;
- b. have a minimum clear floor area of 200 square feet, including the newborn care area and a minimum clear dimension of 12 feet;
- c. have an outside window;
- d. have windows or doors within a normal sightline that would permit observation into the room and shall be arranged or draped as necessary for mother and newborn privacy;
- e. have a hands-free hand-washing station; and
- f. have direct access to a private bathroom that includes a:

- i. hand-washing station;
- ii. toilet; and
- iii. shower or tub.

B. The newborn care area shall be a separately located area within the birthing room.

C. The reception and administration area shall be located as to control and monitor traffic flow/access to the ABU.

D. The staff work area shall:

1. be provided for the ABU staff;
2. have space for counters and storage; and
3. have convenient access to hand-washing facilities.

E. Hand-washing stations shall be readily accessible to families, visitors, and staff.

F. Medication Preparation Location

1. Provisions shall be made for the distribution of medications from a medicine preparation room or area, from a self-contained medicine dispensing unit, or by another approved system.

2. The medication preparation room or area shall:

- a. be under the visual control of the staff;

and

- b. contain the following:
 - i. a work counter;

- ii. a hand-washing station;
- iii. a lockable refrigerator; and
- iv. a locked storage for controlled drugs;

3. When a medication preparation room or area is to be used to store self-contained medication dispensing units, the room shall be designed with adequate space to prepare medicines with the self-contained medicine-dispensing units present.

G. Self-Contained Medication-Dispensing Unit

1. The location of a self-contained medicine-dispensing unit shall be permitted in the clean workroom or in an alcove, provided the ABU has adequate security for medications and adequate lighting to easily identify drugs.

2. The self-contained medicine-dispensing unit shall provide convenient access to hand-washing stations.

H. Nourishment Area

1. A nourishment area shall have the following:
- a. a sink;
 - b. a work counter;
 - c. a refrigerator;
 - d. storage cabinets;
 - e. equipment for hot and cold nourishment;
 - f. provisions and space for separate temporary storage of unused and soiled dietary trays not picked up during meal time; and

g. immediate accessible hand-washing stations in or near the nourishment area.

2. Ice-making equipment shall:

a. be provided for treatments and nourishment;

b. be permitted in the clean workroom or the nourishment room; and

c. ice intended for human consumption shall be provided in the nourishment station and shall be served from self-dispensing ice-makers.

I. A clean workroom shall be separate from and have no direct connection with soiled workrooms or soiled holding rooms.

1. If the room is used for preparing care items for mothers and newborns, it shall contain:

a. a work counter;

b. a hand-washing station; and

c. storage facilities for clean and sterile supplies and equipment.

2. Storage for hazardous cleaning solutions, compounds, and substances shall be labeled and kept in an enclosed storage area or approved cabinet separate from other cleaning materials.

J. A soiled workroom or soiled holding room shall be separate from and have no direct connection with clean work rooms or clean supply rooms.

1. A soiled workroom or soiled holding room shall contain:

a. a clinical sink (or equivalent flushing rim fixture) and a hand-washing station; and

b. a work counter and space for separate covered container for soiled linen and a variety of waste types.

2. Omission of the clinical sink and work counter shall be permitted in rooms used only for temporary holding of soiled material. If the flushing-rim clinical sink is not provided, the facilities for cleaning bedpans shall be provided in the mothers' toilet rooms.

K. Environmental Services Room. An environmental services room shall be provided for the exclusive use of the ABU and include:

1. a service sink or floor receptor; and

2. a space for storage of supplies, housekeeping equipment, and housekeeping carts.

L. Examination Rooms. An examination room shall:

1. preserve patient privacy from outside observation;

2. be located convenient to nursing the station;

3. have a bathroom immediately accessible that includes:

a. ventilation with a minimum of 10 air changes per hour; and

b. have an exhaust;

4. have a hand-washing station;

5. have the following space requirements:

a. a minimum clear floor area of 80 square feet;

b. a minimum continuous clearance of 2 feet 8 inches at each side of the examination table; and

c. have counter and shelf space;

6. have ventilation with a minimum of six air changes per hour;

7. have lighting with fixed and portable features; and

8. have an examination table with access to at least two duplex receptacles.

M. Support areas provided for staff shall include:

1. a changing room;

2. a lounge;

3. a bathroom; and

4. securable lockers, closets and cabinet compartments.

N. Engineering and maintenance services shall have sufficient space for mechanical and electrical equipment and for the proper maintenance of equipment.

O. Building Codes and Architectural Details

1. The facility shall meet the business occupancy provisions of applicable life safety and building codes.

2. Corridors shall have a minimum corridor width of 5 feet and minimum height of 7 feet 8 inches.

3. Ceilings shall have a minimum height of 7 feet 10 inches with the following exceptions:

a. ceilings heights for storage rooms, toilet rooms, etc. shall not be less than 7 feet 8 inches; and

b. rooms containing ceiling mounted equipment/light fixtures shall be of sufficient height to accommodate the equipment or fixtures and normal movement.

4. Birthing room surfaces. Birthing room surfaces shall have:

a. finishes selected to facilitate cleaning and to resist strong detergents; and

b. finishes in the dietary area to ensure the ability to be cleaned and disinfected.

P. Building Systems

1. Heating, ventilation and air-conditioning, electrical, plumbing and related systems shall meet state and local building codes.

2. Heating, ventilation and air-conditioning systems in the environmental services (housekeeping) room shall be exhausted at a rate consistent with approved infection control guidelines.

Q. Electrical Systems

1. Lighting shall:

a. provide both subdued indirect lighting and special lighting capable of providing at least 70 foot-candles in the delivery and newborn care area(s); and

b. have emergency lighting available.

R. Oxygen and vacuum outlets shall be available.

1. Use of portable equipment shall be permitted.

S. Security systems shall be designed for active and passive security systems. Locking arrangements, security alarms, and monitoring devices shall be placed not to interfere with the life safety feature necessary to operate and maintain a healthy and functional environment.

T. Elevators shall be equipped with a cab with minimum dimensions of 5 feet 8 inches wide by 7 feet 6 inches deep.

U. Corridors, attics, and passageways shall be free of storage. Exits shall not be blocked by storage of furniture or equipment at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9561. Equipment

A. The governing body and medical staff shall specify the types of equipment that is required for an ABU. This shall include at a minimum:

1. emergency equipment including:
 - a. an adult emergent care cart labeled and stocked accordingly; and
 - b. a neonatal emergent care cart labeled and stocked accordingly;
2. equipment and supplies used for labor and delivery including:
 - a. fetal heart rate doppler, fetoscope, and/or external fetal monitor;
 - b. a birthing tub; and
 - c. a bed;
3. equipment and supplies used for the newborn including:

- a. a newborn crib, bassinet or newborn examination unit; and
- b. calibrated newborn scales;
- 4. oxygen and supplies;
- 5. pulse oximetry supplies;
- 6. suction and supplies for mother and newborn;
- 7. maternal and newborn airways;
- 8. a wall clock synchronized with hospital system;
- 9. supplies for unique identification of mother and newborn;
- 10. a secure medication dispensing system;
- 11. emergency call and lighting systems; and
- 12. ancillary support equipment as needed.

B. The facility shall have a newborn abduction emergency alert system.

C. All hand-washing facilities shall be equipped with hands-free handles, disposable soap dispenser, paper towel dispenser and trash receptacle.

D. Vertical and horizontal transport systems shall be operated and maintained in a manner to provide for safe transport.

E. The facility shall have functional emergency communication, including:

- 1. telephone;

2. nurse call; and
3. internal/external paging system.

F. An ABU shall have storage for hazardous cleaning solutions, compounds, and substances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9563. Services

A. The ABU shall have patient care services policies that delineate the organization of the unit, qualifications of the staff and requirements for staff to patient ratio.

B. Unit Organization

1. Care in an ABU shall be under the direction of a CNM.

a. A CNM and a registered nurse shall be available per hospital on call policy to ensure 24 hour coverage for patient care.

b. Qualified professional clinical staff shall monitor the patient's progress in labor with ongoing assessments of maternal/fetal reactions to the process of labor, within accepted professional standards.

2. Authority and responsibilities of all patient care staff shall be clearly defined in written policies.

3. The functions of the ABU shall be under the direction of perinatal services. These functions shall include, but are not limited to:

a. the development, implementation, enforcement, monitoring, and annual review of policies and procedures related to patient care;

b. the orientation and training of qualified staff for provision of care; and

c. provisions for current educational and reference materials.

C. Staff Qualifications

1. The CNM shall provide documentation of current licensure and certification, as required by the Louisiana State Board of Nursing (LSBN). The documentation shall be maintained as part of the credential file for each CNM.

2. Licensed nursing personnel shall practice in accordance with the Louisiana State Nurse Practice Act and demonstrate current licensure by LSBN.

3. All clinical staff of the ABU shall be required to provide documentation of training and continued competence in Adult Basic Cardiopulmonary Life Support (BCLS) and Neonatal Resuscitation Program (NRP) or its equivalent.

4. Documented, dated, and signed demonstration of skills competencies shall be maintained in the personnel file for each staff member.

D. Requirements for Staff to Patient Ratio

1. A CNM must be present at all times while a laboring patient is in the ABU.

2. A Registered Nurse (RN) shall provide 1:1 maternal care during labor, delivery and post-delivery.

3. There shall be sufficient professional and support staff on duty and on call to meet the following patient's needs:

- a. for services routinely provided;
- b. to assure patient safety and satisfaction;

and

c. to ensure that no patient in active labor is left unattended.

4. During the second stage of labor, 2:1 patient care is required, with one of the clinical staff being a CNM and one other RN.

5. Staffing per shift shall be based on acuity and census of the ABU.

6. Each RN shall be responsible for 1:1 labor care and/or 1:2 couplet care.

AUTHORITY NOTE: Promulgated in accordance with R.S.
40:2100-2115.

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

§9565. Medical Records Requirements

A. The medical record of the mother and newborn shall
include, but not be limited to, the following documentation:

1. informed consent signed by the patient and the
CNM;
2. demographic and patient information;
3. family, medical, social, reproductive, nutrition
and behavioral history;
4. initial maternal assessment and examination;
5. evaluation of maternal/fetal risk factors;
6. written orders for maternal/fetal and newborn
care;
7. laboratory and/or diagnostic test results;
8. documentation of maternal/fetal and newborn
monitoring;
9. postpartum assessments;
10. physical assessment of newborn, e.g., Apgar
score, weights, measurements;
11. labor and discharge summaries; and

12. educational instructions for postpartum and newborn home care, follow ups, and referrals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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

§9567. Pharmaceutical Services

A. The ABU shall follow hospital policies and procedures for pharmaceutical services regarding the procurement, storage, distribution and control of all medications. The ABU shall be in compliance with all local, state, and federal regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

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 and autonomy as described in R.S. 49:972 by assuring the safe operation of alternative birthing units within licensed hospitals.

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 and community asset development as described in R.S. 49:973.

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, April 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

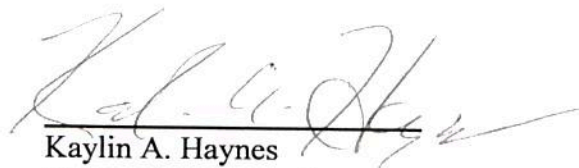
April 24, 2014

9:30 a.m.

RE: Hospital Licensing Standards
Alternative Birthing Units
Docket # 042414-06
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 April 24, 2014 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.


Kaylin A. Haynes
Medicaid Policy and
Compliance

04/24/14

Date

DHH/BHSF PUBLIC HEARING

Topic -- Hospital Licensing Standards -- Alternative Birthing Units

April 24, 2014

Name	Address	Telephone Number	AGENCY or GROUP you represent
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3.			
4. <i>Dwayne Doreen</i>	<i>5445 Court St Baton Rouge, LA 70809</i>	<i>225-266-5933</i>	<i>LALA</i>
5. <i>Barbara Esthete</i>			
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