

as CP when all CPs at a practice site are unavailable. The eligibility requirements also make it clear that physicians with a medical license on probationary terms and conditions, which do not restrict the ability to collaborate with an APRN, would be eligible to serve as a CP. Under current practices, these opportunities are unavailable to CPs.

The proposed rules also place certain administrative obligations on collaborating physicians to: insure eligibility to serve as a CP, have an understanding of the applicable law/rules governing such practice and confirm with the APRN that any required documentation concerning collaborative practice has been submitted to the Board of Nursing; report the fact that he or she is engaged in a collaborative practice with an APRN to the Board annually as part of their medical license renewal process; when serving as a sole CP at a practice site, provide no less than thirty days' notice to an APRN when ending a collaborative practice agreement for predictable, voluntary reasons, and work with an APRN to identify and enlist a physician to serve as an ACP in the event of involuntary or unpredictable reasons e.g., death, disability or unplanned absence.

Finally, the proposed rules also prohibit compensation arrangements for performing no professional services and merely serving as a CP, or for an amount that is not consistent with the fair market value of the services provided to an APRN. While it is not possible to estimate the degree of the impact the proposed rules will have, there is no anticipated material effect on the costs, workload, paperwork, receipts or income of affected physicians.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules will not affect competition or employment.

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NOTICE OF INTENT

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

Home Health Program
Home Health Encounters and Services
(LAC 50:XIII.Chapters 1-5)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XIII.Chapters 1-5 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 299 of the 2011 Regular Session of the Louisiana Legislature, the Department of Health, Bureau of Health Services Financing amended the provisions governing home health services in order to adopt provisions establishing mandatory cost reporting requirements for providers of home health services (*Louisiana Register*, Volume 39, Number 3). The department now proposes to amend the provisions governing home health services in order to comply with U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) regulations requiring face-to-face encounters, to clarify the provisions governing home health

services settings, and to remove the visit limit for adult recipients in order to align services with those received by the Medicaid expansion population.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XIII. Home Health Program

Subpart 1. Home Health Services

Chapter 1. General Provisions

§101. Definitions

[Formerly LAC 50:XIX.101]

A. The following words and terms, when used in this Subpart 1, shall have the following meanings, unless the context clearly indicates otherwise:

* * *

Home Health Services—patient care services provided in the patient's residential setting or any setting in which normal life activities take place under the order of a physician that are necessary for the diagnosis and treatment of the patient's illness or injury, including one or more of the following services:

a. - e. ...

f. medical supplies, equipment and appliances suitable for use in any setting in which normal life activities take place.

NOTE: Medical supplies, equipment and appliances for home health are reimbursed through the Durable Medical Equipment Program and must be prior authorized.

Occupational Therapy Services—medically prescribed treatment to improve, maintain or restore a function which has been impaired by illness or injury or, when the function has been permanently lost or reduced by illness or injury, to improve the individual's ability to perform those tasks required for independent functioning

* * *

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 30:431 (March 2004), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

§103. Requirements for Home Health Services

[Formerly LAC 50:XIX.103]

A. Home health services shall be based on an expectation that the care and services are medically reasonable and appropriate for the treatment of an illness or injury, and that the services can be performed adequately by the agency in the recipient's residential setting or any setting in which normal life activities take place. For initial ordering of home health services, the physician or authorized non-physician provider (NPP) must document a face-to-face encounter that is related to the primary reason the recipient requires home health services. This face-to-face encounter must occur no more than 90 days before or 30 days after the start of services. For the initial ordering of medical supplies, equipment and appliances, the physician must document that a face-to-face encounter that is related to the primary reason the recipient requires medical equipment occurred no more than six months prior to the start of services. A written plan of care for services shall be evaluated and signed by the physician every 60 days. This plan of care shall be maintained in the recipient's medical records by the home health agency.

B. Home Health services shall be provided in the recipient's residential setting or any setting in which normal life activities take place, other than a hospital, nursing facility, intermediate care facility for individuals with intellectual disabilities or any setting in which payment is, or could be, made under Medicaid for inpatient services that include room and board.

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 30:431 (March 2004), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

Chapter 3. Medical Necessity

§301. General Provisions

[Formerly LAC 50:XIX.301]

A. - A.5.f. ...

B. Home health skilled nursing and aide services are considered medically reasonable and appropriate when the recipient's medical condition and medical records accurately justify the medical necessity for services to be provided in their residential setting or any setting in which normal life activities take place, other than a hospital, nursing facility, intermediate care facility for individuals with intellectual disabilities or any setting in which payment is, or could be made, under Medicaid for inpatient services that include room and board rather than in a physician's office, clinic, or other outpatient setting according to guidelines as stated in this Subpart.

C. - D.3. ...

E. Home health services will be authorized upon medical necessity determination based on the state's medical necessity criteria pursuant to LAC 50:I.1101.

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 30:431 (March 2004), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

§303. Provisions for Infants and Toddlers

[Formerly LAC 50:XIX.303]

A. - C.2. ...

3. failure or lack of cooperation by the child's legal guardian(s) to obtain the required medical services in an outpatient setting.

NOTE: The fact that an infant or toddler cannot ambulate or travel without assistance from another is not a factor in determining medical necessity for services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:432 (March 2004), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

§305. Extended Nursing Services for Ages 0-21

A. Extended nursing services may be provided to a Medicaid recipient who is age birth through 21 when it is determined to be medically necessary for the recipient to receive a minimum of three continuous hours per day of nursing services. Medical necessity for extended nursing services exists when the recipient has a medically complex condition characterized by multiple, significant medical

problems that require nursing care as defined by the Louisiana Nurse Practice Act.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:406 (March 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

Chapter 5. Retrospective Review

§501. Home Health Visits

[Formerly LAC 50:XIX.501]

A. Home health services provided to recipients are subject to post-payment review in order to determine if the recipient's condition warrants high utilization.

B. - C. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:432 (March 2004), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by assuring that Medicaid recipients receive needed home health services in an efficient and cost-effective manner.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have 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 allowing working family members to maintain stable employment due to the improved delivery of home health services which may reduce the financial burden on families.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for

responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, November 29, 2017 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.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Home Health Program Home Health Encounters and Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in net estimated state general fund costs of approximately \$2,053 for FY 17-18, \$3,874 for FY 18-19 and \$3,990 for FY 19-20. It is anticipated that \$1080 (\$540 SGF and \$540 FED) will be expended in FY 17-18 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 63.34 percent in FY 17-18 and 64.23 percent in FY 18-19 and FY 19-20.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$3,155 for FY 17-18 \$6,956 for FY 18-19 and \$7,165 for FY 18-19. It is anticipated that \$540 will be expended in FY 17-18 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 63.34 percent in FY 17-18 and 64.23 percent in FY 18-19.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing home health services in order to comply with U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) regulations requiring face-to-face encounters, to clarify the provisions governing home health services settings, and to remove the visit limit for adult recipients in order to align services with those received by the Medicaid expansion population. This proposed Rule may be beneficial to recipients due to the removal of the limit for home health services rendered to adults who may be in need of increased visits. Providers of home health services may also benefit from the removal of the limitation on the number of visits payable by the Medicaid Program. It is anticipated that implementation of this proposed rule will increase programmatic expenditures in the Medicaid program by approximately \$4,128 for FY 17-18, \$10,830 for FY 18-19 and \$11,155 for FY 19-20.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

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Medicaid Director
1710#052

Gregory V. Albrecht
Chief Economist
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NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Inpatient Hospital Services
Office of Public Health Newborn Screening Payments
(LAC 50:V.115)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:V.115 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing provides reimbursement through the Medical Assistance Program to the Office of Public Health (OPH) for laboratory services rendered in an acute care inpatient hospital setting in compliance with the requirements of Act 840 of the 1997 Regular Session of the Louisiana Legislature.

The department promulgated an Emergency Rule which amended the provisions governing inpatient hospital services in order to establish Medicaid reimbursement to OPH for newborn screenings provided in an acute care inpatient hospital setting, and to ensure that these provisions are promulgated in a clear and concise manner in the *Louisiana Administrative Code (Louisiana Register, Volume 43, Number 8)*. The department subsequently promulgated an Emergency Rule which amended the provisions of the August 5, 2017 Emergency Rule in order to clarify the legislatively mandated requirements for OPH newborn screenings governed by these provisions (*Louisiana Register, Volume 43, Number 10*). This proposed Rule is being promulgated to continue the provisions of the August 5, 2017 and October 20, 2017 Emergency Rules.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals Services

Chapter 1. General Provisions

§115. Office of Public Health Newborn Screenings

A. The Department of Health, Bureau of Health Services Financing shall provide reimbursement to the Office of Public Health (OPH) through the Medical Assistance Program for newborn screenings performed by OPH on specimens taken from children in acute care hospital settings.