

NOTICE OF INTENT**Department of Health
Bureau of Health Services Financing**

Managed Care for Physical and Behavioral Health
Applied Behavior Analysis-Based Therapy Services
(LAC 50:I.3103 and 3507)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:I.3103 and §3507 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 proposes to amend the provisions governing managed care for physical and behavioral health in order to clarify that Medicaid recipients who are in need of applied behavior analysis-based therapy must access these services through a managed care organization under the Healthy Louisiana program.

Title 50**PUBLIC HEALTH—MEDICAL ASSISTANCE****Part I. Administration****Subpart 3. Managed Care for Physical
and Behavioral Health****Chapter 31. General Provisions****§3103. Recipient Participation**

A. - A.1.k. ...

B. Mandatory, Voluntary Opt-In Participants

1. Participation in an MCO for the following participants is mandatory for specialized behavioral health, applied behavior analysis (ABA)-based therapy and non-emergency medical transportation (NEMT) services (ambulance and non-ambulance) only, and is voluntary for physical health services:

B.1.a. - I. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1573 (June 2011), amended LR 40:310 (February 2014), LR 40:1096 (June 2014), LR 40:2258 (November 2014), LR 41:929 (May 2015), LR 41:2363 (November 2015), LR 42:754 (May 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1522 (September 2016), LR 43:663 (April 2017), LR 43:1553 (August 2017), LR 44:

Chapter 35. Managed Care Organization**Participation Criteria****§3507. Benefits and Services**

A. - C.4. ...

D. The following is a summary listing of the core benefits and services that an MCO is required to provide:

1. - 5. ...

6. EPSDT/well child visits, excluding dental services;

D.7. - H.5. ...

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 37:1585 (June 2011), amended LR 39:92 (January 2013),

repromulgated LR 39:318 (February 2013), LR 41:936 (May 2015), LR 41:2367 (November 2015), LR 42:755 (May 2016), amended the Department of Health, Bureau of Health Services Financing, LR 44:61 (January 2018), 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 as it will ensure continued access to applied behavior analysis-based therapy services for Medicaid recipients who have opted out of the physical health coverage through managed care organizations.

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 as it reduces the financial burden for families of Medicaid recipients who have opted out of physical health coverage through managed care organizations that are in need of applied behavior analysis-based therapy services.

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, May 30, 2018 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: Managed Care for Physical
and Behavioral Health—Applied Behavior
Analysis-Based Therapy Services**

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

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 17-18. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 17-18 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed Rule will not affect revenue collections other than the federal share of the promulgation costs for FY 17-18. It is anticipated that \$270 will be collected in FY 17-18 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This proposed Rule amends the provisions governing managed care for physical and behavioral health in order to clarify that Medicaid recipients who are in need of applied behavior analysis-based therapy must access these services through a managed care organization under the Healthy Louisiana program. Recipients will benefit from this proposed rule since it ensures that voluntary, opt-in Healthy Louisiana participants continue to receive ABA services through the managed care organizations (MCOs). There is no anticipated impact to MCOs or providers as these are services that are currently provided and associated costs are already built into the managed care rate structure. It is anticipated that implementation of this proposed rule will not have economic costs to providers or MCOs for FY 17-18, FY 18-19 and FY 19-20.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

It is anticipated that the implementation of this proposed rule will not have an effect on competition.

Jen Steele
Medicaid Director
1804#024

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Office of Public Health**

Water Supplies (LAC 51:XII.101, 105, 302, 319, and 355)

Under the authority of R.S. 40:4, 40:4.13, and 40:5 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the state health officer, acting through the Louisiana Department of Health, Office of Public Health (LDH-OPH), intends to amend Part XII (Water Supplies) of the Louisiana state *Sanitary Code* (LAC 51). When effective, the proposed amendments to Part XII will assist LDH-OPH in ensuring the continued protection of public health from contaminated drinking water. The intent of the amendments is to add four requirements to the list of significant deficiencies (see §319)

as approved by the Water Committee on March 8, 2018. Public water systems are required to correct significant deficiencies identified by LDH-OPH personnel during a sanitary survey. Sanitary surveys (onsite inspections) are required by federal regulations to be conducted every 3 to 5 years depending on the water system type, and therefore the compliance deadline for the new requirements will vary by water system and may be extended on an as needed basis. The intent of §302 amendments is to clarify that the new design standards in Chapter 1 and 2 as published in the February 20, 2018 *Louisiana Register* will supersede Chapter 3 design standards for new public water systems or any proposed new construction or modification to an existing public water system. The remaining amendments in the proposed Rule are just clarifications and do not impose any new requirements. The effective date of the below proposed amendments is planned to be on August 1, 2018 to coincide with the effective date of the previously mentioned new design standards. For these reasons set forth above, Part XII (Water Supplies) of the Louisiana state *Sanitary Code* (LAC 51:XII) is proposed to be amended as follows.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part XII. Water Supplies

Chapter 1. General

§101. Definitions

[formerly paragraph 12:001]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the *Sanitary Code*, and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows.

Critical Component—a component is considered critical if failure is expected to result in a quality or quantity of finished water that fails to meet the requirements of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:258(B), R.S. 36:254(B)(7), R.S. 40:4(A)(8), R.S. 40:4.13(D)(1)(2), R.S. 40:5(A) (2)(3)(5)(6)(17)(20), and R.S. 40:1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1318 (June 2002), amended LR 28:2513 (December 2002), LR 30:1194 (June 2004), LR 30:2326 (October 2004), LR 35:484 (March 2009), LR 35:1240 (July 2009), LR 38:2375 (September 2012), LR 38:2793 (November 2012), LR 38:3232 (December 2012), amended by the Department of Health, Office of Public Health, LR 43:84 (January 2017), LR 44:296 (February 2018), effective August 1, 2018, LR 44:

**§105. Permit Requirements for a Potable Water
Supply**

[formerly paragraph 12:002-2]

A. - B. ...

C. Submission of plans for maintenance and replacement of existing facilities in-kind shall not be required.

1. Interior coating of potable water storage tanks is not considered maintenance and shall be submitted to the state health officer for approval. Submission for pre-approval of materials for minor repairs is allowable.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8), 40:4.13(D)(1)(2) and R.S. 40:5(A)(2)(3) (5)(6)(7)(17)(19).