

reimbursement rates resulting from the provider’s transition from a private nursing facility to a state-owned or operated facility. It is anticipated that implementation of this proposed rule may increase Medicaid programmatic expenditures for the nursing facility by approximately \$1,224,288 for FY 18-19, \$1,241,292 for FY 19-20 and \$0 for FY 20-21.

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. However, we anticipate that the implementation may have a negative effect on employment as it may reduce the reimbursements made to the affected nursing facility. The reduction in payments may adversely impact the financial standing of the nursing facility and could possibly cause a reduction in employment opportunities.

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**NOTICE OF INTENT**

**Department of Health  
Bureau of Health Services Financing  
and  
Office of Behavioral Health**

Behavioral Health Services  
Substance Use Disorders Services  
(LAC 50:XXXIII.14101, 14301, 14303 and 14501)

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.14101, §14301, §14303, and §14501 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 U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) approved a request by the Department of Health to implement the Healthy Louisiana Opioid Use Disorder/Substance Use Disorder Waiver, a five-year 1115(a) demonstration waiver to permit managed care organizations (MCOs) to provide opioid use disorder/substance use disorder services to Medicaid recipients in an institution for mental disease (IMD) without regard to the monthly MCO length of stay limit for these residential treatment services in an IMD setting. The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend the provisions governing substance use disorders services in order to align these provisions with the CMS-approved Healthy Louisiana Opioid Use Disorder/Substance Use Disorder Waiver.

**Title 50  
PUBLIC HEALTH—MEDICAL ASSISTANCE  
Part XXXIII. Behavioral Health Services  
Subpart 15. Substance Use Disorders Services  
Chapter 141. General Provisions  
§14101. Introduction**

A. ...

B. The SUD services rendered shall be those services which are medically necessary to reduce the disability resulting from the illness and to restore the individual to his/her best possible level of functioning in the community.

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 38:426 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2357 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:1890 (October 2018), LR 45:

**Chapter 143. Services  
§14301. General Provisions**

A. All SUD services must be medically necessary. The medical necessity for services shall be determined by a licensed mental health practitioner (LMHP) or physician who is acting within the scope of his/her professional license and applicable state law.

B. American Society of Addiction Medicine (ASAM) levels of care require reviews on an ongoing basis, as deemed necessary by the department to document compliance with national standards.

C. Children who are in need of SUD services should be served within the context of the family and not as an isolated unit. Services provided to children and youth shall include communication and coordination with the family and/or legal guardian and custodial agency for children in state custody provided that written consent is obtained from minor. Coordination with other child-serving systems should occur as needed to achieve the treatment goals subject to the minor’s consent and applicable privacy laws. All coordination and consent must be documented in the child’s medical record.

1. Services shall be:
  - a. delivered in a culturally and linguistically competent manner; and
  - b. respectful of the individual receiving services.
2. Services shall be appropriate to individuals of diverse racial, ethnic, religious, sexual, and gender identities, and other cultural and linguistic groups.
3. Services shall also be appropriate for:
  - a. age;
  - b. development; and
  - c. education.

D. Evidence-based practices require prior approval and fidelity reviews on an ongoing basis as determined necessary by the department.

D.1. - E. 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, Bureau of Health Services Financing, LR 38:426 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2357 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:1890 (October 2018), LR 45:

**§14303. Covered Services**

A. The following SUD services shall be reimbursed under the Medicaid Program:

1. assessment;

2. outpatient treatment;
3. residential treatment; and
4. inpatient treatment.

B. Service Exclusions. The following services/components shall be excluded from Medicaid reimbursement:

1. - 2. ...
3. any services or components in which the basic nature of which are to supplant housekeeping, homemaking, or basic services for the convenience of an individual receiving services; and
4. room and board for any rates provided in a residential setting.
5. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:426 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2357 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:1891 (October 2018), LR 45:

## **Chapter 145. Provider Participation**

### **§14501. Provider Responsibilities**

A. - D. ...

E. Providers shall maintain case records that include, at a minimum:

1. the name of the individual;
2. the dates and time of service;
3. assessments;
4. a copy of the treatment plans, which include at a minimum:
  - a. goals and objectives, which are specific, measureable, action oriented, realistic and time-limited;
  - b. specific interventions;
  - c. the service locations for each intervention;
  - d. the staff providing the intervention; and
  - e. the dates of service;
5. progress notes that include the content of each delivered service, including the reason for the contact describing the goals/objectives addressed during the service, specific intervention(s), progress made toward functional and clinical improvement;
6. units of services provided;
7. crisis plan;
8. discharge plan; and
9. advanced directive.

F. Residential treatment facilities shall meet the following additional requirements:

1. Be a licensed organization, pursuant to the residential service provider qualifications described in the Louisiana Administrative Code and the Louisiana Medicaid provider manual.
2. Residential addiction treatment facilities shall be accredited by an approved accrediting body and maintain such accreditation. Denial, loss of or any negative change in accreditation status must be reported to the MCO in writing within the time limit established by the department.
3. Provide full disclosure of ownership and control, including but not limited to any relative contractual agreements, partnerships, etc.

4. Follow all residential treatment provider qualifications and program standards in licensure, Medicaid provider manual, managed care contracts or credentialing.

5. Must deliver care consistent with the specifications in the ASAM Criteria or other OBH approved, nationally recognized SUD program standards, hours of clinical care, and credentials of staff for residential treatment settings.

6. Effective April 1, 2019, must offer medication-assisted treatment (MAT) on-site or facilitate access to MAT off-site, and appropriately document MAT options, education and facilitation efforts in accordance with requirements outlined in the Medicaid provider manual.

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 38:427 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2357 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:1891 (October 2018), LR 45:

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 on family functioning, stability and autonomy as described in R.S. 49:972 because it will allow recipients in institutions for mental disease with an opioid use disorder/substance use disorder diagnosis to access critical treatment services.

#### **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 because it will allow recipients in institutions for mental disease with an opioid use disorder/substance use disorder diagnosis to access critical OUD/SUD treatment 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 Thursday, December 27, 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: Substance Use Disorders 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 18-19. It is anticipated that \$1,080(\$540 SGF and \$540 FED) will be expended in FY 18-19 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 18-19. It is anticipated that \$540 will be collected in FY 18-19 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 substance use disorders services in order to align these provisions with the Healthy Louisiana Opioid Use Disorder/Substance Use Disorder Waiver, a five-year 1115(a) demonstration waiver approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) to permit managed care organizations (MCOs) to provide opioid use disorder/substance use disorder (OUD/SUD) services to Medicaid recipients in an institution for mental disease (IMD) without regard to the monthly MCO length of stay limit for these residential treatment services in an IMD setting. Recipients in IMDs with OUD/SUD diagnoses will benefit from the implementation of this proposed Rule, since it ensures continued access to critical OUD/SUD treatment services that were already being provided prior to the waiver, without interruption in care. There is no anticipated impact as a result of this proposed rule which ensures alignment of the SUD provisions in the Louisiana Administrative Code with the CMS-approved 1115(a) waiver that continues ongoing expenditures previously being reimbursed as a cost effective alternative benefit (or "in lieu of") arrangement with the MCOs, does not add or expand service coverage, and allows the state to continue to draw down the same federal match for these services. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to substance use disorders services providers for FY 18-19, FY 19-20 and FY 20-21.

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

This rule has no known effect on competition and employment.

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## NOTICE OF INTENT

### Department of Health Emergency Response Network Board

Trauma Program Recognition (LAC 48:I.19707)

Notice is hereby given that the Louisiana Emergency Response Network Board has exercised the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and intends to codify in LAC 48:I.Chapter 197, Section 19707, a Rule revised by the Louisiana Emergency Response Network Board in a meeting of August 16, 2018, the following "Trauma Program Recognition", adopted as authorized by R.S. 9:2798.5. The Rule clarifies timeliness and requirements for hospitals seeking Trauma Program recognition.

### Title 48

### PUBLIC HEALTH—GENERAL

#### Part I. General Administration

#### Subpart 15. Emergency Response Network

#### Chapter 197. Trauma Program Recognition

#### §19707. Procedure for Trauma Program Recognition

A. - E. ...

F. After loss of trauma program status for failing the ACS verification visit and focused review visit, trauma program status may be regained provided the following conditions are met:

1. A LERN designee and either the LERN trauma medical director or a trauma surgeon must review the deficiencies and findings of the ACS at a site visit;
2. The hospital must develop a remediation plan and apply to the LERN board for approval of trauma program status;
3. The LERN board will review the LERN team assessment of deficiencies and the hospital's remediation plan;
4. The LERN board must vote to approve the trauma program status request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2846(A), R.S. 40:2845(A)(1) and R.S. 9:2798.5.

HISTORICAL NOTE: Promulgated by the Department of Health, Emergency Response Network, LR 42:1932 (November 2016), LR 45:

### Family Impact Statement

1. What effect will this Rule have on the stability of the family? The proposed Rule will not affect the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule will not affect the