

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

This Rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1910#074

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Treatment for Opioid Use Disorder in Opioid Treatment Programs (LAC 50:XXXIII.Chapters 151-157)

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to adopt LAC 50:XXXIII.Chapters 151-157 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 1006(b) of the Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act amended Section 1902(a)(10)(A) of the Social Security Act to add medication-assisted treatment as a mandatory Medicaid benefit, defined as all drugs approved by the Food and Drug Administration (FDA), including methadone.

The Department of Health, Bureau of Health Service Financing and the Office of Behavioral Health propose to adopt provisions governing medication-assisted opioid use disorder (OUD) treatment in Opioid Treatment Programs, for Medicaid-eligible recipients ages 18 and over, diagnosed with OUD.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXXIII. Behavioral Health Services

Subpart 16. Coverage for Treatment for Opioid Use Disorder in Opioid Treatment Programs

Chapter 151. General Provisions

§15101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage for medication-assisted treatment provided in Opioid Treatment Programs, including but not limited to, methadone treatment, to all Medicaid-eligible adults and children with opioid use disorder (OUD).

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, Bureau of Health Services Financing and the Office of Behavioral Health, LR 46:

§15103. Recipient Qualifications

A. Adults and children who meet Medicaid eligibility and clinical criteria shall qualify to receive medically necessary OUD services in Opioid Treatment Programs.

B. Qualifying recipients must meet the following criteria:

1. are at least 18 years old, unless the recipient has consent from a parent or legal guardian, if applicable; and

2. meet the federal requirements regarding admission to the Opioid Treatment 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, Bureau of Health Services Financing and the Office of Behavioral Health, LR 46:

Chapter 153. Services

§15301. General Provisions

A. All treatment services must be medically necessary.

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, Bureau of Health Services Financing and the Office of Behavioral Health, LR 46:

§15303. Covered Services

A. The following services provided by Opioid Treatment Programs shall be reimbursed under the Medicaid Program:

1. the administration and dispensing of medications; and

2. treatment phases outlined in LAC 48:I.5725.

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, Bureau of Health Services Financing and the Office of Behavioral Health, LR 46:

Chapter 155. Provider Participation

§15501. Provider Responsibilities

A. Each Opioid Treatment Program shall enter into a contract with the managed care organizations (MCOs) and the coordinated system of care (CSoc) contractor in order to receive reimbursement for Medicaid covered services.

B. Opioid treatment programs shall deliver all services in accordance with federal and state laws and regulations, and the provisions of this Rule.

C. Opioid Treatment Programs must be licensed in accordance with state laws and regulations, in addition to operating within their scope of practice license.

D. Opioid Treatment Programs shall retain all records necessary to fully disclose the extent of services provided to recipients for five years from the date of service and furnish such records, and any payments claimed for services, to the Medicaid program upon request.

E. Opioid Treatment Programs shall maintain compliance with state and federal regulatory authorities for operation, including but not limited to the Substance Abuse and Mental Health Services Administration (SAMHSA), the Drug Enforcement Administration (DEA), and the State Opioid Treatment Authority.

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, Bureau of Health Services Financing and the Office of Behavioral Health, LR 46:

Chapter 157. Reimbursement

§15701. Reimbursement Methodology

A. Reimbursement rates for Opioid Treatment Programs shall be a bundled rate included in the Specialized Behavioral Health Fee Schedule as determined by the department.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 46:

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 increases access to medication-assisted opioid use disorder treatment services for eligible recipients in need of these 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. 49:973972 as it provides Medicaid reimbursement for medication-assisted opioid use disorder treatment services that were previously cash-based only for recipients in need of these services.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

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, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since it provides Medicaid reimbursement for the provision of medication-assisted opioid use disorder treatment services to eligible recipients.

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. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on November 29, 2019.

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on November 12, 2019. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public

hearing at 9:30 a.m. on November 27, 2019 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after November 12, 2019. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Treatment for Opioid Use Disorder in Opioid Treatment Programs

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 estimated state programmatic costs of approximately \$1,442,423 for FY 19-20, \$3,669,734 for FY 20-21 and \$3,847,724 for FY 21-22. It is anticipated that \$864 (\$432 SGF and \$432 FED) will be expended in FY 19-20 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 66.40 percent in FY 19-20, FY 20-21, and FY 21-22 for the projected non-expansion population, and a blended FMAP rate of 91.50 percent in FY 19-20 and 90.00 percent in FY 20-21 and FY 21-22 for the projected expansion population.

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 \$5,859,016 for FY 19-20, \$14,265,866 for FY 20-21 and \$14,836,501 for FY 21-22. It is anticipated that \$432 will be collected in FY 19-20 for the federal share of the 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 66.40 percent in FY 19-20, FY 20-21, and FY 21-22 for the projected non-expansion population, and a blended FMAP rate of 91.50 percent in FY 19-20 and 90.00 percent in FY 20-21 and FY 21-22 for the projected expansion population.

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

This proposed rule adopts provisions governing opioid use disorder (OUD) treatment in Opioid Treatment Programs, for recipients ages 18 and over, diagnosed with an OUD, in compliance with Section 1006(b) of the Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act, which amended Section 1902(a)(10)(A) of the Social Security Act to add medication-assisted treatment, including methadone treatment, as a mandatory Medicaid benefit. Implementation of this proposed Rule will be beneficial as it ensures that eligible recipients will have access to necessary medication-assisted OUD treatment and providers will receive Medicaid

reimbursement for the provision of these services. It is anticipated that implementation of this proposed rule will result in programmatic costs to the Medicaid program of \$7,300,575 in FY 19-20, \$17,965,600 in FY 20-21 and \$18,684,224 in FY 21-22.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
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Evan Brasseaux
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Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

Regulation 98—Annual Financial Reporting
(LAC 37:XIII.Chapter 137)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend Regulation 98—Annual Financial Reporting by adding a definition for “internal audit function”, amending the provision for a hearing regarding qualification of an independent certified public accountant, adding a requirement for audit committees pertaining to internal audit functions, and adding §13728 pertaining to internal audit function requirements.

The purpose of the amendment to Regulation 98 is to implement and clarify annual financial reporting requirements which will improve the surveillance of the financial condition of insurers by the Department of Insurance and will further the National Association of Insurance Commissioners’ (NAIC) unified effort toward reciprocity among the states.

**Title 37
INSURANCE**

Part XIII. Regulations

**Chapter 137. Regulation Number 98—Annual
Financial Reporting**

§13705. Definitions

A. ...

* * *

Audit Committee—a committee or equivalent body established by the board of directors of an entity for the purpose of overseeing the accounting and financial reporting processes of an insurer or Group of insurers, the Internal audit function of an insurer or Group of insurers (if applicable), and external audits of financial statements of the insurer or Group of insurers. The Audit Committee of any entity that controls a Group of insurers may be deemed to be the Audit Committee for one or more of these controlled insurers solely for the purposes of Regulation 98 at the election of the controlling person. Refer to §13727.A.6 for exercising this election. If an Audit Committee is not designated by the insurer, the insurer's entire board of directors shall constitute the Audit Committee.

* * *

Internal Audit Function—a person or persons that provide independent, objective and reasonable assurance designed to add value and improve an organization's operations and accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1 et seq., the "Audited Financial Reports Law" R.S. 22:671 et seq., more particularly R.S. 22:675 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner LR 35:2454 (November 2009), amended LR 45:

§13713. Qualifications of Independent Certified Public Accountant

A. - E.3. ...

F. The insurer, as provided in accordance with the requirements of the Administrative Procedure Act, R.S. 49:950 et seq., may request a hearing to determine whether an independent certified public accountant is qualified.

G. - L.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1 et seq., the "Audited Financial Reports Law" R.S. 22:671 et seq., more particularly R.S. 22:675 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner LR 35:2456 (November 2009), amended LR 45:

§13727. Requirements for Audit Committees

A. - A.1. ...

2. The Audit committee of an insurer or Group of insurers shall be responsible for overseeing the insurer's Internal audit function and granting the person or persons performing the function suitable authority and resources to fulfill their responsibilities if required by §13728 of this Regulation.

3. Each member of the audit committee shall be a member of the board of directors of the insurer or a member of the board of directors of an entity elected pursuant to §13727.A.6 and as defined by §13705.

4. In order to be considered independent for purposes of this Section, a member of the audit committee may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board committee, accept any consulting, advisory or other compensatory fee from the entity or be an affiliated person of the entity or any subsidiary thereof. However, if law requires board participation by otherwise non-independent members, that law shall prevail and such members may participate in the audit committee and be designated as independent for audit committee purposes, unless they are an officer or employee of the insurer or one of its affiliates.

5. If a member of the audit committee ceases to be independent for reasons outside the member's reasonable control, that person, with notice by the responsible entity to the department, may remain an audit committee member of the responsible entity until the earlier of the next annual meeting of the responsible entity or one year from the occurrence of the event that caused the member to no longer be independent.