

\$9,546,282 for FY 20-21, \$18,790,482 for FY 21-22, and \$18,790,482 for FY 22-23. It is anticipated that \$1,080 will be collected in FY 20-21 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, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

Act 421 of the 2019 Regular Session of the Louisiana Legislature directed the department to establish the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) option within the Medical Assistance Program through which children with disabilities can access Medicaid-funded services regardless of their parents' income. This proposed Rule, in compliance with Act 421, adopts provisions to establish the Act 421 Children's Medicaid Option program as a demonstration waiver under section 1115 of the Social Security Act. This proposed Rule will be beneficial to recipients by allowing qualified children with disabilities to access Medicaid-funded services regardless of their parents' income. Providers will benefit from implementation of this proposed Rule since they will receive reimbursement for the provision of services that were previously not covered for this population. It is anticipated that implementation of this proposed Rule will increase expenditures for Medicaid services by approximately \$14,390,244 for FY 20-21, \$27,990,244 for FY 21-22, and \$27,990,244 for FY 22-23.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Ruth Johnson  
Executive Director  
2010#051

Christopher A. Keaton  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Adult Mental Health Services—Peer Support Services  
(LAC 50:XXXIII.6307)**

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.6307 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.

On June 6, 2018, the Department of Health signed an agreement with the United States Department of Justice which requires the department to ensure that peer support specialists are incorporated into behavioral health services. Senate Concurrent Resolution (SCR) 84 of the 2019 Regular Session of the Louisiana Legislature requested the Department of Health to take all steps necessary to approve peer support services as a Medicaid covered service. In compliance with SCR 84 and the agreement with the United States Department of Justice, the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend the provisions governing adult mental health services in order to add peer support services as a covered service.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XXXIII. Behavioral Health Services**

**Subpart 7. Adult Mental Health Services**

**Chapter 63. Services**

**§6307. Covered Services**

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

1. ...

2. rehabilitation services, including community psychiatric support and treatment (CPST), psychosocial rehabilitation (PSR), and peer support services; and

A.3.- B.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 38:359 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 42:61 (January 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:1015 (June 2018), LR 46:795 (June 2020), repromulgated LR 46:952 (July 2020), amended 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 provides access to peer support 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 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 provides access to peer support 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 this proposed Rule authorizes payments to providers for these services.

### Public Comments

Interested persons may submit written comments to Ruth Johnson, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Johnson is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 30, 2020.

### Public Hearing

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 October 12, 2020. 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 October 29, 2020 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 October 12, 2020. 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.

Dr. Courtney N. Phillips

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: **Adult Mental Health Services—Peer Support Services**

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

It is anticipated that implementation of this proposed rule will result in increased state costs of approximately \$1,814,987 for FY 20-21, \$2,082,360 for FY 21-22 and \$2,134,419 for FY 22-23. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 20-21 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 increase federal revenue collections by approximately \$4,312,483 for FY 20-21, \$4,350,633 for FY 21-22, and \$4,459,399 for FY 22-23. It is anticipated that \$270 will be collected in FY 20-21 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, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule, in compliance with an agreement with the United States Department of Justice and Senate Concurrent Resolution 84 of the 2019 Regular Session of the Louisiana Legislature, amends the provisions governing adult mental health services in order to add peer support services as a covered service. This will be beneficial to recipients ages 21 years and older who are in need of this service. This proposed

Rule will be beneficial to providers by permitting Medicaid reimbursement for services provided by trained, certified peers. It is anticipated that implementation of this proposed Rule will increase expenditures for behavioral health services by approximately \$6,126,660 for FY 20-21, \$6,432,993 for FY 21-22, and \$6,593,818 for FY 22-23.

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

This rule has no known effect on competition and employment.

Ruth Johnson  
Executive Director  
2009#052

Christopher A. Keaton  
Legislative Fiscal Officer  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Health Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers  
New Opportunities Waiver  
Individual and Family Support Payments  
(LAC 50:XXI.13701,13902,13927,13933, and 14301)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.13701, §13927, and §14301, adopt §13902, and repeal §13933 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 and the Office for Citizens with Developmental Disabilities propose to amend the provisions governing the New Opportunities Waiver in order to change the complex care service to a supplemental payment and to update skilled nursing provider qualifications to reflect the current licensing requirements. This change is necessary based on Centers for Medicare and Medicaid Services (CMS) guidance and the decision by CMS to not approve Complex Care as a service.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community-Based Services Waivers

#### Subpart 11. New Opportunities Waiver

#### Chapter 137. General Provisions

#### §13701. Introduction

A. - D. ...

E. Only the following NOW services shall be provided for, or billed for, during the same hours on the same day as any other NOW service:

1. ...
2. supported independent living; and
3. skilled nursing services.

a. Skilled nursing services may only be provided with:

- i. substitute family care;
- ii. supported independent living;