

NSGO facilities qualified to receive quarterly upper payment limit supplemental payments. This proposed Rule will have no impact on small businesses. It is anticipated that implementation of this proposed rule will reduce expenditures for nursing facility services by approximately \$639,414 for FY 20-21, \$639,414 for FY 21-22 and \$639,414 for FY 22-23.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Interim Medicaid Director
2012#049

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Professional Services Program Reimbursement Methodology (LAC 50:IX.Chapter 151)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:IX.Chapter 151 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 the Professional Services Program in order to remove information related to programs no longer in operation, remove provisions that are located in other places within the *Louisiana Administrative Code*, clarify the reimbursement methodology for certain providers and services, and to provide for a rate restoration related to neonatal critical care services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter B. Physician Services

§15111. General Provisions

A. Physicians shall be reimbursed according to the established fee schedule or billed charges, whichever is the lesser amount.

B. Optometrists rendering eye care services shall be reimbursed using the same methodology as physicians rendering the same eye care services.

1. - 3. Repealed.

C. Advanced practice registered nurses, physician assistants, and licensed midwives shall be reimbursed as a percentage of physician reimbursement, as specified by the Medicaid 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 and Hospitals, Bureau of Health Services Financing, LR 39:3300 (December 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

§15113. Reimbursement Methodology

A. For newly added procedure codes for beneficiaries age 0 through 15 years old, the Medicaid fee shall be set at 90 percent of the current year's Louisiana Region 99 Medicare allowable fee. For newly added procedure codes for beneficiaries age 16 years and older, the Medicaid fee shall be set at 75 percent of the current year's Louisiana Region 99 Medicare allowable fee.

1. If there is no corresponding Medicare fee, the Medicaid fee shall be set based on a review of other state Medicaid Program fees, other health insurer fees in Louisiana, or as determined by either the Louisiana Medicaid Medical Director or the contracted physician consultant of the department's fiscal intermediary.

2. If establishing a Medicaid fee based on Medicare rates results in a fee that is reasonably expected to be insufficient to ensure that the service is available to beneficiaries, an alternate methodology shall be used. The Medicaid fee shall be set based on a review of other state Medicaid Program fees, other health insurer fees in Louisiana, or as determined by either the Louisiana Medicaid Medical Director or the contracted physician consultant of the department's fiscal intermediary.

B. Effective for dates of service on or after October 15, 2007, the reimbursement for selected physician services shall be 90 percent of the 2007 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated.

1. The reimbursement shall remain the same for those services that are currently being reimbursed at a rate that is between 90 percent and 120 percent of the 2007 Louisiana Medicare Region 99 allowable.

2. For those services that are currently reimbursed at a rate above 120 percent of the 2007 Louisiana Medicare Region 99 allowable, effective for dates of service on or after October 15, 2007, the reimbursement for these services shall be reduced to 120 percent of the 2007 Louisiana Medicare Region 99 allowable.

C. Effective for dates of service on or after January 1, 2008, the reimbursement for selected physician services shall be 90 percent of the 2008 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated.

1. The reimbursement shall remain the same for those services that are currently reimbursed at a rate that is between 90 percent and 120 percent of the 2008 Louisiana Medicare Region 99 allowable.

2. For those services that are currently reimbursed at a rate above 120 percent of the 2008 Louisiana Medicare Region 99 allowable, effective for dates of service on or after January 1, 2008, the reimbursement for these services shall be reduced to 120 percent of the 2008 Louisiana Medicare Region 99 allowable.

2.a - 3.b. Repealed.

D. Effective for dates of service on or after August 4, 2009, the reimbursement for all physician services rendered to recipients 16 years of age or older shall be reduced to 80 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

1. For those services that are currently reimbursed at a rate below 80 percent of the Louisiana Medicare Region 99 allowable, effective for dates of service on or after August 4,

2009, the reimbursement for these services shall be increased to 80 percent of the Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

a. - c. Repealed.

2. The following physician services are excluded from the rate adjustment:

- a. preventive medicine evaluation and management;
- b. immunizations;
- c. family planning services; and
- d. select orthopedic reparative services.

3. Effective for dates of service on or after November 20, 2009, the following physician services are excluded from the rate adjustment:

- a. prenatal evaluation and management; and
- b. delivery services.

E. ...

1. The following physician services rendered to recipients 16 years of age or older shall be reimbursed at 80 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount:

- a. prenatal evaluation and management services;
- b. preventive medicine evaluation and management services; and
- c. obstetrical delivery services.

F. Effective for dates of service on or after January 22, 2010, physician services rendered to recipients 16 years of age or older shall be reduced to 75 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

G. - H.3. ...

1. Effective for dates of service on or after July 1, 2012, reimbursement shall be as follows for the designated physician services:

1. reimbursement for professional consultation services (procedure codes 99241-99245 and 99251-99255) shall be discontinued;

2. reimbursement for cesarean delivery (procedure codes 59514-59515) shall be reduced to equal reimbursement for vaginal delivery fees (procedure codes 59409-59410); and

3. ...

J. Effective for dates of service on or after February 1, 2013, the reimbursement for certain physician services shall be reduced by 1 percent of the rate in effect on January 31, 2013.

1. - 4. Repealed.

K. Effective for dates of service on or after February 1, 2018, physicians, who qualify under the provisions of §15110 for services rendered in affiliation with a state-owned or operated entity that has been designated as an essential provider, shall receive enhanced reimbursement rates up to the community rate level for qualifying services as determined in §15110.C.

L. Effective for dates of service on or after May 1, 2021, the fee on file for inpatient neonatal critical care services (as specified in CPT) shall be increased by 5 percent.

L.1. - N. 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 36:1252 (June 2010), amended LR 36:2282 (October 2010), LR 37:904 (March 2011), LR 39:3300, 3301 (December 2013), LR

41:541 (March 2015), LR 41:1119 (June 2015), LR 41:1291 (July 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 44:62 (January 2018), LR 47:

Subchapter E. Family Planning Services

§15141. General Provisions

A. Reimbursement for family planning services shall be made according to the established fee schedule or billed charges, whichever is the lesser amount.

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, LR 47:

§15143. Reimbursement Methodology

A. The reimbursement methodology for family planning services is the same as for physician services.

B. - E.3.a. 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 36:2566 (November 2010), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:96 (January 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:1781 (July 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

§15145. Long-Acting Reversible Contraceptives

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 40:2261 (November 2014), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:

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 no impact on family functioning, stability and autonomy as described in R.S. 49:972.

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 no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

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 some providers to provide the same level of service, and may enhance those provider's ability to provide the same level of service as described in HCR 170 since this Emergency Rule increases payments to some providers for the same services they already render.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on March 1, 2021.

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 February 9, 2021. 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 February 28, 2021 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 February 9, 2021. 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
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Professional Services Program Reimbursement Methodology

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 \$42,148 for FY 20-21, \$168,974 for FY 21-22 and \$179,847 for FY 22-23. It is anticipated that \$1,296 (\$648 SGF and \$648 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 \$86,527 for FY 20-21, \$356,935 for FY 21-22, and \$379,900 for FY 22-23. It is anticipated that \$648 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 amends the provisions governing reimbursement in the Professional Services Program in order to remove information related to programs no longer in operation, remove provisions that are located in other places within the Louisiana Administrative Code, clarify the reimbursement methodology for certain provider types and services, and to provide for a restoration of the reimbursement rates for neonatal critical care services which were previously reduced. Providers of neonatal critical care services will benefit from the increase in reimbursement rates. It is anticipated that implementation of this proposed Rule will increase payments in the Professional Services Program by approximately \$127,379 for FY 20-21, \$525,909 for FY 21-22, and \$559,747 for FY 22-23.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Interim Medicaid Director
2012#050

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Office of Public Health

Registration of Foods, Drugs, Cosmetics and Prophylactic Devices (LAC 49:Chapter 5)

Under the authority of R.S. 40:4 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 adopt one new Section and amend certain existing Sections of Chapter 5 (Registration of Foods, Drugs, Cosmetics and Prophylactic Devices) of Title 49 (Public Health—Food, Drugs, and Cosmetics) of the Louisiana Administrative Code. This proposed rule will update LDH-OPH's currently existing rule pertaining to industrial hemp-derived cannabidiol products (IHDCP). This rulemaking is proposed pursuant to Section 1483 of Title 3 of the Revised Statutes of 1950, enacted as part of Act 344 of the 2020 Regular Session of the Louisiana Legislature.

For the reason set forth above, the following proposed additions and amendments to LAC 49 are hereby proposed to be adopted.

Title 49

Public Health—FOOD, DRUGS, AND COSMETICS

Part I. Regulations

Chapter 5. Registration of Foods, Drugs, Cosmetics and Prophylactic Devices

§501. Definitions

[Formerly 49:2.2100]

A. Unless otherwise specifically provided herein, the following words and terms used in this Chapter of Title 49, and all other Chapters of Title 49 which are adopted or may be adopted, are defined for the purposes thereof as follows.
