

Developmental Disabilities and have a high concentration of people who have intellectual/developmental disabilities, significant behavioral health needs, and high risk behavior resulting in previous interface with the judicial system, and for whom no other private ICFs/IID provider is able to support. This proposed Rule will be beneficial to recipients by ensuring the continuation of appropriate care in the appropriate setting. Qualifying ICFs/IID will benefit from implementation of this proposed Rule as it increases reimbursement rates temporarily for the provision of services to these recipients until a permanent facility can be identified that can provide the care needed for this population. It is anticipated that implementation of this proposed Rule will increase payments to qualifying ICFs/IID by approximately \$805,125 for FY 20-21, \$1,386,182 for FY 21-22, and \$1,386,182 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  
2102#033

Alan M. Boxberger  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**  
**Department of Health**  
**Bureau of Health Services Financing**  
**and**  
**Office of Aging and Adult Services**

Personal Care Services  
Long Term Care  
(LAC 50:XV.Chapter 129)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:XV.Chapter 129 under 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 of Aging and Adult Services (OAAS) propose to amend the provisions governing long-term personal care services (LT-PCS) in order to: 1) clarify that instrumental activities of daily living can be provided outside of the participant's home, if approved; 2) remove language regarding relatives that can be direct service workers (DSWs); 3) remove language requiring documentation of place of service in hardcopy service logs; 4) clarify language regarding payment of DSWs at least at the current federal or state minimum hourly wage; and 5) add language regarding the state's authority to set and change LT-PCS rates and/or provide lump sum payments to providers based upon funds allocated by the legislature.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part XV. Services for Special Populations**  
**Subpart 9. Personal Care Services**  
**Chapter 129. Long Term Care**  
**§12903. Covered Services**

A. - A.8. ...

B. IADLs are those activities that are considered essential but may not require performance on a daily basis. IADLs include tasks such as:

B.1. - E. ...

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, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2578 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:2507 (September 2013), LR 42:902 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 42:1931 (November 2016), LR 47:

**§12913. Service Delivery**

A. Personal care services shall be provided in the recipient's home or in another location outside of the recipient's home if the provision of these services allows the recipient to participate in normal life activities pertaining to the IADLs cited in the plan of care. The recipient's home is defined as the place where he/she resides such as a house, an apartment, a boarding house, or the house or apartment of a family member or unpaid primary care-giver. IADLs cannot be performed in the recipient's home when the recipient is absent from the home, unless it is approved by OAAS or its designee on a case-by-case basis.

B. ...

C. Participants are not permitted to live in a home or property owned, operated, or controlled by an owner, operator, agent, or employee of a licensed provider of long-term care services, and providers are prohibited from providing and billing for services under these circumstances. Participants may not live in the home of their direct support worker unless the direct support worker is related to, and it is the choice of, the participant.

1. ...

D. Place(s) of service must be documented in the plan of care.

E. ...

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, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended LR 30:2833 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Financing and the Office of Aging and Adult Services, LR 39:2509 (September 2013), LR 41:541 (March 2015), LR 42:903 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR:47:

**§12917. Reimbursement**

A. ...

B. The minimum hourly rate paid to personal care workers shall be at least the current federal or state minimum hourly wage.

C. The state has the authority to set and change LT-PCS rates and/or provide lump sum payments to LT-PCS providers based upon funds allocated by the legislature.

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, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:253 (February 2008), LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:1901 (September 2009), LR 36:1251 (June 2010), LR 37:3267 (November 2011), LR 39:1780 (July 2013), LR 42:904 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR:47:

#### **§12919. Cost Reporting Requirements**

A. LT-PCS providers must complete annual cost reports.

B. Each LT-PCS provider shall complete the LDH approved cost report and submit the cost report(s) to the department no later than five months after the state fiscal year ends (June 30).

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 39:1052 (April 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, 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, 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 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 April 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 March 12, 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 March 31, 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 March 12, 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: Personal Care Services Long Term Care**

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

It is anticipated that implementation of this proposed rule may result in a fiscal impact to the state for FY 20-21, FY 21-22, and FY 22-23, due to the state's ability to adjust rates or pay lump-sum payments as a result of legislative appropriations, if the legislature appropriates funds in the future. It is anticipated that \$864 (\$432 SGF and \$432 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 have no effect on revenue collections other than the federal share of the promulgation costs for FY 20-21. It is anticipated that \$432 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 long-term personal care services (LT-PCS) in order to: 1) clarify that instrumental activities of daily living can be provided outside of the participant's home, if approved; 2) remove language regarding relatives that can be direct service workers (DSWs); 3) remove language requiring documentation of place of service in hardcopy service logs; 4) clarify language regarding payment of DSWs at least at the current federal or state minimum hourly wage, which does not impact the fee schedule

and/or payments that the state pays to provider agencies; and 5) add language regarding the state's authority to set and change LT-PCS rates and/or provide lump sum payments to providers based upon funds allocated by the legislature. It is anticipated that implementation of this proposed rule may result in costs for LT-PCS services for FY 20-21, FY 21-22 and FY 22-23 due to the state's ability to adjust rates or pay lump-sum payments as a result of legislative appropriations, if the legislature appropriates funds in the future, and will be beneficial to providers and small businesses by clarifying and updating the LT-PCS requirements in the administrative Rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc  
Interim Medicaid Director  
2102#034

Alan M. Boxberger  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health**

**Licensed Professional Counselors Board of Examiners**

**Consulting with Medical Practitioners (LAC 46:LX.2109)**

In accordance with the applicable provisions of the Louisiana Administrative Procedures Act (R.S.49:950 et seq.) and through the authority of the Mental Health Counselor Licensing Act (R.S. 37:1101 et seq.), the Louisiana Licensed Professional Counselors Board of Examiners proposes removing §2109.A.2.e which requires consulting with Medical Practitioners. During the 2017 legislative session, Act 235 removed the requirement to consult with Medical Practitioners when diagnosing for Serious Mental Illness.

The Louisiana Licensed Professional Counselors Board of Examiners hereby gives Notice of Intent to adopt rules for publication in the February 20th, 2021 edition of the Louisiana Register.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS REVISED**

**Part LX. Licensed Professional Counselors Board of Examiners**

**Subpart 1. Licensed Professional Counselors**

**§2109. Relationships with Other Professionals**

A.1 - 2.d. ...

e. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:625 (August 1989), amended LR 24:443 (March 1998), LR 29:146 (February 2003), LR 39:1800 (July 2013), LR 41:732 (April 2015), amended LR 47:

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of these rules on family has been considered. This proposal to create licensee

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

**Poverty Impact Statement**

The proposed rule should not have any known or foreseeable impact on any child, individual, or family as defined by R.S. 49:973.B In particular, there should be no known or foreseeable effect on:

1. The effect on household income, assets, and financial security;
2. The effect on early childhood development and preschool through postsecondary education development;
3. The effect on employment and workforce development;
4. The effect on taxes and tax credits;
5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

**Provider Impact Statement**

The proposed change should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. The effect on the staffing level requirements or qualifications required to provide the same level of service;
2. The total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. The overall effect on the ability of the provider to provide the same level of service.

**Public Comments**

Interested persons may submit written comments to Jamie S. Doming, Licensed Professional Counselors Board of Examiners, 11410 Lake Sherwood Avenue North Suite A, Baton Rouge, LA 70816 by March 10, 2021 at 5:00 p.m.

Jamie S. Doming  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Consulting with Medical Practitioners**

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

The proposed rule changes are not anticipated to result in any additional costs or savings for state or local governmental units. During the 2017 legislation session, Act 235 removed the requirement to consult regarding the diagnosis of serious mental illnesses. The proposed change is a technical revision to remove language in Section 2109.

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

The proposed rule change is not anticipated to impact revenue collections for state or local governmental units.

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

The proposed technical rule change will not directly affect persons, non-governmental groups or small businesses. Licensees are no longer required to consult with medical practitioners in order to diagnose for serious mental illnesses. The new law, enacted in 2017, requires this technical change to the rules in order to be in compliance with current legislation. The rule change will rescind Section 2109, which required