

**Title 50****PUBLIC HEALTH—MEDICAL ASSISTANCE****Part V. Hospital Services****Subpart 5. Outpatient Hospital Services****Chapter 53. Outpatient Surgery****Subchapter A. General Provisions****§5301. Payment for Outpatient Surgery Services**

A. Payment for outpatient surgery services is a flat rate in accordance with the published fee schedule. The flat rate payment covers all services provided during the outpatient surgical admission. There shall be no cost settlement for outpatient surgery services except for the specific hospital types identified in Subchapter B of this Chapter.

1. Effective for dates of service on or after February 10, 2022, the Medicaid Program shall provide reimbursement for Coronavirus Disease 2019 laboratory testing in addition to the outpatient surgery fee schedule flat fee reimbursement 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 48:

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.

Interested persons may submit written comments to Patrick Gillies, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Mr. Gillies is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips  
Secretary

2202#055

**DECLARATION OF EMERGENCY****Department of Health****Bureau of Health Services Financing**

Pharmacy Benefits Management Program  
Over-the-Counter At-Home COVID-19 Tests  
(LAC 50:XXIX.107)

The Department of Health, Bureau of Health Services Financing amends LAC 50:XXIX.107 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953.1 et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) requires

states to provide reimbursement in the Medical Assistance Program for over-the-counter (OTC) at-home tests for Coronavirus Disease 2019 (COVID-19) that have been authorized by the Food and Drug Administration (FDA). In compliance with CMS requirements, the Department of Health, Bureau of Health Services Financing hereby amends the provisions governing the Pharmacy Benefits Management Program in order to include coverage for FDA-authorized OTC at-home tests for COVID-19.

It is anticipated that this Emergency Rule will result in programmatic costs in the Medicaid Program of approximately \$34,123 for State Fiscal Year 2021-2022. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring access to COVID-19 tests.

Effective February 4, 2022, the Department of Health, Bureau of Health Services Financing amends the provisions governing the Pharmacy Benefits Management Program in order to provide coverage for OTC at-home COVID-19 tests.

**Title 50****PUBLIC HEALTH—MEDICAL ASSISTANCE****Part XXIX. Pharmacy****Chapter 1. General Provisions****§107. Prior Authorization**

A. - C.3. ...

D. Drugs Excluded from Coverage. As provided by §1927(d)(2) of the Social Security Act, the following drugs are excluded from program coverage:

1. - 4.o. ...

5. select nonprescription drugs except OTC antihistamines and antihistamine/decongestant combinations and polyethylene glycol 3350 (Miralax®) and OTC at-home COVID-19 FDA-authorized tests;

E. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and the 1995-96 General Appropriations Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1053 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1180 (June 2017), LR 43:1553 (August 2017), LR 45:665 (May 2019), LR 46:33 (January 2020), LR 48:

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.

Interested persons may submit written comments to Patrick Gillies, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. Mr. Gillies is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips  
Secretary

2202#018