

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: Home Health Program  
American Rescue Plan Act Funding**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
It is anticipated that implementation of this proposed rule will result in estimated programmatic costs of approximately \$961,128 for FY 22-23 and \$2,883,750 for FY 23-24. It is anticipated that \$756 (\$378 SGF and \$378 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed and final rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
It is anticipated that implementation of this proposed rule will increase federal revenue collections by approximately \$961,128 for FY 22-23 and \$2,883,750 for FY 23-24. It is anticipated that \$378 will be collected for the federal share of the expense for promulgation of the proposed and final rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
This proposed rule continues the provisions of the January 10, 2023 Emergency Rule, which adopted provisions in the Home Health Program in order to establish recruitment and retention payments for nurses that provide extended home health (EHH) services to beneficiaries under the age of 21 who are in a Medicaid waiver program. The proposed rule complies with the Department's administration and payment model that was approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) for funds provided under Section 9817 of the American Rescue Plan Act of 2021. This proposed rule provides an administrative fee to home health agencies to make recruitment and retention payments to nurses which ensures that pediatric Medicaid waiver participants continue to receive EHH services. Implementation of this proposed rule is anticipated to increase expenditures for home health services by approximately \$1,921,500 for FY 22-23 and \$5,767,500 for FY 23-24.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
This proposed rule provides an administrative fee to home health agencies to make recruitment and retention payments to nurses that provide extended home health services to pediatric Medicaid waiver participants.

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Medicaid Executive Director  
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Evan Brasseaux  
Interim Deputy Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT  
Department of Health  
Bureau of Health Services Financing**

Home Health Program  
Authorizing Authority and Emergency Provisions  
(LAC 50:XIII.Chapter 1)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XIII.Chapter 1 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.

Act 181 of the 2021 Regular Session of the Louisiana Legislature directed the Department of Health to add nurse practitioners, clinical nurse specialists, and physician assistants as healthcare providers authorized to order home health services. In compliance with Act 181, the Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the Home Health Program in order to add nurse practitioners, clinical nurse specialists, and physician assistants as healthcare providers authorized to order home health services and to repeal emergency provisions that are no longer applicable as a result of this change. In addition, this proposed Rule modifies the locations in which home health services may be provided to be consistent with U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) requirements.

**Title 50  
PUBLIC HEALTH—MEDICAL ASSISTANCE  
Part XIII. Home Health Program  
Subpart 1. Home Health Services  
Chapter 1. General Provisions  
§101. Definitions**

**[Formerly LAC 50:XIX.101]**

A. The following words and terms, when used in this Subpart 1, shall have the following meanings, unless the context clearly indicates otherwise:

*Authorized Healthcare Provider*—a physician, nurse practitioner, clinical nurse specialist, or physician assistant licensed, certified, registered, or otherwise authorized to order home healthcare services consistent with Louisiana law.

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*Home Health Services*—patient care services provided in the patient's home or place of residence under the order of an authorized healthcare provider that are necessary for the diagnosis and treatment of the patient's illness or injury, including one or more of the following services:

a. - e. ...

f. medical supplies, equipment and appliances suitable for use in the patient's home or place of residence.

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*Physical Therapy Services*—rehabilitative services necessary for the treatment of the patient’s illness or injury or, restoration and maintenance of function affected by the patient’s illness or injury. These services are provided with the expectation, based on the authorized healthcare provider’s assessment of the patient’s rehabilitative potential, that:

a. - b. ...

*Place of Residence*—location where normal life activities take place but does not include a hospital, intermediate care facility for individuals with intellectual disabilities, or any setting in which payment is or could be made under Medicaid for inpatient services that include room and board.

\* \* \*

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 30:431 (March 2004), amended by the Department of Health, Bureau of Health Services Financing, LR 44:59 (January 2018), LR 49:

**§103. Requirements for Home Health Services**  
**[Formerly LAC 50:XIX.103]**

A. Home health services shall be based on an expectation that the care and services are medically reasonable and appropriate for the treatment of an illness or injury, and that the services can be performed adequately by the agency in the recipient's home or place of residence. For initial ordering of home health services, the authorized healthcare provider must document a face-to-face encounter that is related to the primary reason the recipient requires home health services. This face-to-face encounter must occur no more than 90 days before or 30 days after the start of services. For the initial ordering of medical supplies, equipment and appliances, the authorized healthcare provider must document that a face-to-face encounter that is related to the primary reason the recipient requires medical equipment occurred no more than six months prior to the start of services. A written plan of care for services shall be evaluated and signed by the authorized healthcare provider every 60 days. This plan of care shall be maintained in the recipient's medical records by the home health agency.

B. Home health services shall be provided in the recipient’s home or place of residence.

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 30:431 (March 2004), amended by the Department of Health, Bureau of Health Services Financing, LR 44:59 (January 2018), LR 49:

**§104. Emergency Provisions**

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, Bureau of Health Services Financing, LR 48:2293 (September 2022), LR 49:

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 may have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by reducing the waiting time to receive an order for home health 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 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 the Small Business Protection Act, 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.

**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. 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 3, 2023.

**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 13, 2023. If criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on March 30, 2023 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 13, 2023. 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: Home Health Program**

**Authorizing Authority and Emergency Provisions**

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

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 22-23. It is anticipated that \$864 (\$432 SGF and \$432 FED) will be expended in FY 22-23 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 22-23. It is anticipated that \$432 will be collected in FY 22-23 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 OR NONGOVERNMENTAL GROUPS (Summary)**

In compliance with Act 181 of the 2021 Regular Session of the Louisiana Legislature, this proposed rule amends the provisions governing the Home Health Program in order to add nurse practitioners, clinical nurse specialists, and physician assistants as healthcare providers authorized to order home health services and to repeal emergency provisions that are no longer applicable as a result of this change. In addition, this proposed rule modifies the locations in which home health services may be provided to be consistent with U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) requirements. This proposed rule will benefit Medicaid beneficiaries by ensuring access to home health services in more locations and reducing the waiting time to receive an order for home health services. It is anticipated that implementation of this proposed rule will not result in costs to home health providers in FY 22-23, FY 23-24, and FY 24-25, but will be beneficial by ensuring that additional healthcare providers are authorized to order services.

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

This rule has no known effect on competition and employment.

Tara A. LeBlanc  
Medicaid Executive Director  
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Evan Brasseaux  
Interim Deputy Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health  
Bureau of Health Services Financing**

Medicaid Eligibility  
Resource Disregards  
(LAC 50:III.10705)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:III.10705 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 1902(r)(2) of the Social Security Act (SSA) grants states the authority to adopt resource disregards for the purposes of determining eligibility in the Medical Assistance Program (Medicaid). The Department of Health, Bureau of Health Services Financing determined that it was necessary to disregard unspent funds received as a class member pursuant to a class settlement in the case of *Nancy Anderson, et al. v. Bob Dean Jr., et al.*, 24th Judicial District Court, Parish of Jefferson, No. 820-839 from resources when determining Medicaid eligibility. Under the authority granted by section 1902(r)(2) of the SSA, the department promulgated an Emergency Rule which amended the provisions governing financial eligibility in the Medical Assistance Program in order to disregard unspent funds received by settlement class members in the case of *Nancy Anderson, et al. v. Bob Dean Jr., et al.*, 24th Judicial District Court, Parish of Jefferson, No. 820-839 from resources (*Louisiana Register*, Volume 49, Number 1). This proposed Rule is being promulgated to continue the provisions of the January 1, 2023 Emergency Rule.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part III. Eligibility**

**Subpart 5. Financial Eligibility**

**Chapter 107. Resources**

**§10705. Resource Disregards**

A. - D. ...

E. Disregard from resources unspent funds received as a class member pursuant to a class settlement in the case of *Nancy Anderson, et al. v. Bob Dean Jr., et al.*, 24th Judicial District Court, Parish of Jefferson, No. 820-839.

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 and the Office of Aging and Adult Services, LR 35:1899 (September 2009), amended LR 36:2867 (December 2010), LR 41:949 (May 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 45:1772 (December 2019), LR 46:1393 (October 2020), LR 49:

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 by allowing Medicaid beneficiaries to retain unspent funds received pursuant to a class settlement in the case of *Nancy Anderson, et al. v. Bob Dean Jr., et al* and maintain Medicaid benefits.

**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. 49:973 by allowing Medicaid beneficiaries to retain unspent funds