

C. Substance abuse services covered under the EPSDT Program shall include medically necessary clinic services and other medically necessary substance abuse services rendered to EPSDT recipients.

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:

§9303. Reimbursement Methodology

A. The Medicaid Program shall provide reimbursement to the Office of Behavioral Health for substance abuse services rendered to EPSDT recipients.

B. Reimbursement for these services shall be based on the most recent actual cost to OBH. Cost data shall be derived from the department's ISIS reporting of costs for the period. The cost period shall be consistent with the state fiscal year. Costs are determined by selecting the expenditures paid from state and local funds for the state fiscal year.

C. OBH encounter data from their database shall be used to identify allowable services. Encounter data for recipients under the age of 21 shall be extracted and used in calculations to determine actual cost to OBH.

D. Costs shall be calculated by using the cost-weighted amount and include Medicaid eligibles under 21 database costs divided by total database costs times OBH's expenditures for the program which were derived from the state's ISIS data.

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:

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 Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He 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.

Bruce D. Greenstein
Secretary

1203#056

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Facility Need Review—Hospice Providers
(LAC 48:I.12503, 12505 and 12526)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 48:I.12503 and §12505 and to adopt §12526 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2116. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(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 Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing the inclusion of adult day health care providers in the Facility Need Review (FNR) Program (*Louisiana Register*, Volume 36, Number 2). The department now proposes to amend the provisions governing the facility need review process to adopt provisions governing the inclusion of licensed hospice providers and inpatient hospice providers in the FNR Program.

This action is being taken to avoid sanctions or penalties from the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) for noncompliance with The Patient Protection and Affordable Care Act requirements for pediatric hospice service provisions. It is estimated that implementation of this Emergency Rule will have no programmatic costs for state fiscal year 2011-2012.

Effective March 20, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the facility need review process to adopt provisions governing the inclusion of licensed hospice providers and inpatient hospice providers.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 5. Health Planning

Chapter 125. Facility Need Review

Subchapter A. General Provisions

§12503. General Information

A. - C.1. ...

2. home and community-based service providers, as defined under this Chapter;

3. adult day health care providers; and

4. hospice providers or inpatient hospice facilities.

D. - F.4. ...

G. Additional Grandfather Provision. An approval shall be deemed to have been granted under FNR without review for HCBS providers, ICFs-DD, ADHC and hospice providers that meet one of the following conditions:

1. ...

2. existing licensed ICFs-DD that are converting to the proposed Residential Options Waiver;

3. ADHC providers who were licensed as of December 31, 2009 or who had a completed initial licensing application submitted to the department by December 31, 2009, or who are enrolled or will enroll in the Louisiana Medicaid Program solely as a program for all-inclusive care for the elderly provider; or

4. hospice providers that were licensed, or had a completed initial licensing application submitted to the department, by March 20, 2012.

H. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 28:2190 (October 2002), LR 30:1483 (July 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 34:2612 (December 2008),

amended LR 35:2437 (November 2009), LR 36:323 (February 2010), LR 38:

§12505. Application and Review Process

A. FNR applications shall be submitted to the Bureau of Health Services Financing, Health Standards Section, Facility Need Review Program. The application shall be submitted on the forms (on 8.5 inch by 11 inch paper) provided for that purpose, contain such information as the department may require and be accompanied by a nonrefundable fee of \$200. An original and three copies of the application are required for submission.

A.1. - B.3.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:812 (August 1995), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 34:2612 (December 2008), amended LR 35:2438 (November 2009), LR 36:323 (February 2010), LR 38:

Subchapter B. Determination of Bed, Unit, Facility or Agency Need

§12526. Hospice Providers

A. No hospice provider shall be licensed to operate unless the FNR Program has granted an approval for the issuance of a hospice provider license. Once the FNR Program approval is granted, a hospice provider is eligible to be licensed by the department, subject to meeting all of the requirements for licensure.

B. The service area for proposed or existing hospice providers is within a 50 mile radius of the proposed geographic location where the provider is or will be licensed.

C. Determination of Need/Approval

1. The department will review the application to determine if there is a need for an additional hospice provider within a 50 mile radius of the proposed geographic location for which the application is submitted.

2. The department shall grant FNR approval only if the FNR application, the data contained in the application and other evidence effectively establishes the probability of serious, adverse consequences to the recipients' ability to access hospice care if the provider is not allowed to be licensed.

3. In reviewing the application, the department may consider, but is not limited to, evidence showing:

a. the number of other hospice providers within a 50 mile radius of the proposed geographic location servicing the same population; and

b. allegations involving issues of access to hospice care and services.

4. The burden is on the applicant to provide data and evidence to effectively establish the probability of serious, adverse consequences to recipients' ability to access hospice care if the provider is not allowed to be licensed. The department shall not grant any FNR approvals if the application fails to provide such data and evidence.

D. Applications for approvals of licensed providers submitted under these provisions are bound to the description in the application with regard to the type of services proposed as well as to the site and location as defined in the application. FNR approval of licensed

providers shall expire if these aspects of the application are altered or changed.

E. FNR approvals for licensed providers are non-transferrable and are limited to the location and the name of the original licensee.

1. A hospice provider undergoing a change of location within a 50 mile radius of the licensed geographic location shall submit a written attestation of the change of location and the department shall re-issue the FNR approval with the name and new location. A hospice provider undergoing a change of location outside of the 50 mile radius of the licensed geographic location shall submit a new FNR application and fee and undergo the FNR approval process.

2. A hospice provider undergoing a change of ownership shall submit a new FNR application to the department's FNR Program. FNR approval for the new owner shall be granted upon submission of the new application and proof of the change of ownership, which must show the seller's or transferor's intent to relinquish the FNR approval.

3. FNR Approval of a licensed provider shall automatically expire if the provider is moved or transferred to another party, entity or location without application to and approval by the FNR program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He 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.

Bruce D. Greenstein
Secretary

1203#048

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Home and Community-Based Services Waivers
Support Coordination Standards for Participation
(LAC 50:XXI.Chapter 5)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services adopts LAC 50:XXI.Chapter 5 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(B)(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 Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services (OAAS) provide Medicaid coverage for support coordination services rendered to waiver participants who receive services in home and community-based waiver programs administered by OAAS. The department