

obsolete provisions regarding the use of common electronic files.

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

The proposed rule changes will not affect revenue collections of state or local governmental units.

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

The proposed rule changes will benefit the public by preventing delay of pharmacy services to patients by allowing the transfer of unfilled prescriptions to another pharmacy. The proposed rule changes will benefit the public, pharmacies, and pharmacists by preventing any delay in implementing future federal changes at the state level through referencing federal requirements for transfers of prescriptions for controlled substances.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition or employment.

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NOTICE OF INTENT

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

**Medical Transportation Program
Elevated Level of Care
(LAC 50:XXVII.Chapter 5 and Chapter 7)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XXVII.Chapter 5 and Chapter 7 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 medical transportation program to establish guidelines for the administration and distribution of Elevated Level of Care (ELOC) services by non-emergency medical transportation (NEMT) vendors that meet the criteria to provide an elevated level of care service to Medicaid beneficiaries utilizing this service, and to clarify language regarding non-emergency medical ambulance transportation (NEAT) services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXVII. Medical Transportation Program

Chapter 5. Non-Emergency Medical Transportation

Subchapter A. General Provisions

§501. Introduction

A. Non-emergency medical transportation (NEMT) is provided to Medicaid beneficiaries to and/or from a Medicaid covered service or value-added benefit (VAB) when no other means of transportation is available.

NOTE: Repealed.

B. Medicaid covered transportation is available to Medicaid beneficiaries when:

1. the beneficiary is enrolled in a Medicaid benefit program that explicitly includes transportation services;

2. the beneficiary or their representative has stated that they have no other means of transportation; and

3. the beneficiary may utilize the elevated level of care (ELOC) transportation services, often referred to as door through door transportation, which provides assistance beyond the capacity of the beneficiary. ELOC is a higher level of care for beneficiaries with mobility limitations requiring assistance with ambulating independently when using a wheelchair.

C. This Chapter applies to the fee-for-service and managed care programs for the provision of NEMT to and/or from medically necessary Medicaid covered services.

1. ...

2. An elevated level of care NEMT service utilizes fully credentialed NEMT providers who have complied with any advanced training and insurance required by the department, to transport fee-for-service beneficiaries and managed care enrollees to and/or from covered Medicaid services.

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 47:1638 (November 2021), amended LR 50:

§503. Prior Approval and Scheduling

A. - A.2. ...

B. Elevated level of care wheelchair services require additional approval.

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 47:1639 (November 2021), amended LR 50:

§505. Requirements for Coverage

A. Payment shall only be authorized for the least costly means of transportation available. The least costly means of transportation shall be determined by the department or its designee and considered the beneficiary's choice of transportation, the level of service required to safely transport the beneficiary (e.g., ambulatory, wheelchair, transfer), and the following hierarchy:

1. - 3. ...

4. for-profit providers who are enrolled in the Medicaid Program.

B. Beneficiaries shall be allowed a choice of transportation for-profit providers as long as it remains the least costly means of transportation.

C. Beneficiaries may request NEMT elevated level of care services to and/or from a Medicaid covered service if medically eligible.

1. - 2. Repealed.

D. Beneficiaries are encouraged to utilize healthcare providers of their choice in the community in which they reside when the beneficiary requires Medicaid reimbursed transportation services.

1. Beneficiaries may seek medically necessary services in another state when it is the nearest option available.

2. In the managed care program, transportation will only be approved to and/or from a healthcare provider within

the department's geographic access standards, unless granted an exception by the department or its designee.

E. Beneficiaries and healthcare providers should give advance notice when requesting transportation.

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 47:1639 (November 2021), amended LR 49:877 (May 2023), LR 50:

Subchapter C. Provider Responsibilities

§517. Provider Enrollment

A. ...

B. Non-emergency medical transportation for-profit providers shall have a minimum liability insurance coverage of \$25,000 per person, \$50,000 per accident and \$25,000 property damage policy.

1. - 3. ...

C. As a condition of reimbursement for transporting Medicaid beneficiaries to and/or from healthcare services, gas reimbursement providers must maintain a current valid vehicle registration, the state minimum automobile liability insurance coverage, and a current valid driver's license. Proof of compliance with these requirements must be submitted to the department or its designee during the enrollment process. Gas reimbursement providers are allowed to transport up to five specified Medicaid beneficiaries or all members of one household across all contracted managed care organizations. The provider may not reside at the same physical address as the beneficiary being transported. Individuals transporting more than five Medicaid beneficiaries or all members of one household shall be considered for-profit providers and shall be enrolled as such and comply with all for-profit provider requirements.

D. ...

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 47:1639 (November 2021), amended LR 49:877 (May 2023), LR 50:

Subchapter D. Reimbursement

§523. General Provisions

A. - B. ...

C. Reimbursement for NEMT elevated level of care claims shall be allowed only when accompanied by the completed prior approval form documenting the need for the enhanced level of care.

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 47:1639 (November 2021), amended LR 50:

Chapter 7. Non-Emergency Ambulance Transportation

§705. Prior Approval and Scheduling

A. The department or its designee must review and approve or deny the transportation requests, prior to scheduling, for beneficiary eligibility and verification of the following:

1. ...

2. that a completed certification of ambulance transportation form is received for the date of service and medical necessity has been determined by a licensed medical provider.

B. ...

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 47:1640 (November 2021), amended LR 50:

§707. Reimbursement

A. ...

B. Reimbursement for NEAT claims shall be allowed only when accompanied by the completed certification of ambulance transportation form justifying the need for ambulance services.

C. Medicaid covers medically necessary nonemergency, scheduled, repetitive ambulance services if the ambulance provider or supplier, before furnishing the service to the beneficiary, obtains a certificate of ambulance transportation dated no earlier than 180 days before the date the service is furnished.

D. Reimbursement will not be made for any additional person(s) who must accompany the beneficiary to the medical provider.

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 47:1640 (November 2021), amended LR 50:

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 Impact Statement

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 may have a positive impact on small businesses, as it permits enhanced Medicaid reimbursement for a higher level of services by properly accredited providers.

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 staffing level requirements or qualifications required to provide the same level of service, and will have no impact on the total direct and indirect cost to the provider to provide the same level of service, but will provide an enhanced reimbursement rate for a higher level of

care to properly accredited providers. This proposed Rule is anticipated to 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 Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on August 29, 2024.

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 August 9, 2024. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on August 29, 2024 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 August 9, 2024. 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.

Michael Harrington, MBA, MA
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Medical Transportation Program Elevated Level of Care

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 \$1,068,496 for FY 24-25, \$1,086,604 for FY 25-26, and \$1,119,203 for FY 26-27. It is anticipated that \$1,080 (\$540 SGF and \$540 FED) will be expended in FY 24-25 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule amends the provisions governing the medical transportation program to establish guidelines for the administration and distribution of Elevated Level of Care (ELOC) services in non-emergency medical transportation (NEMT) vendors that meet the criteria to provide an elevated level of care service to Medicaid beneficiaries utilizing this service, and to clarify language regarding non-emergency medical ambulance transportation (NEAT) services.

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 \$2,265,778 for FY 24-25, \$2,346,585 for FY 25-26, and \$2,416,982 for FY 26-27. It is anticipated that \$540 will be collected in FY 24-25 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 the medical transportation program to establish guidelines for the administration and distribution of ELOC services in NEMT

vendors that meet the criteria to provide an elevated level of care service to Medicaid beneficiaries utilizing this service, and to clarify language regarding non-emergency medical ambulance transportation (NEAT) services. This proposed rule will allow eligible Medicaid beneficiaries to receive a higher level of care. Implementation of this proposed rule is anticipated to increase Medicaid payments to qualifying providers by \$3,333,194 in FY 24-25, \$3,433,189 for FY 25-26, and \$3,536,185 for FY 26-27.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

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NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Pharmacy Benefits Management Program Drug Shortages (LAC 50:XXIX.105)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XXIX.105 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 U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) recommended that the Department of Health, Bureau of Health Services Financing clarify language in the Medicaid State Plan relating to drug shortages of prescribed drugs under the Medical Assistance Program. The department proposes to amend the provisions governing the Pharmacy Benefits Management Program in order to align the language in the *Louisiana Administrative Code* with the required changes requested by CMS to the State Plan relative to shortages of drugs not on the covered drug list, including drugs authorized for import by the Food and Drug Administration (FDA) that may be covered when deemed medically necessary during drug shortages identified by the FDA.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXIX. Pharmacy

Chapter 1. General Provisions

§105. Medicaid Pharmacy Benefits Management System Point of Sale—Prospective Drug Utilization Program

A. - C. ...

D. Drug Shortages. Drugs that are not on the list of covered drugs, including drugs authorized for import by the Food and Drug Administration (FDA), may be covered when deemed medically necessary during drug shortages identified by the FDA.

E. Reimbursement Management. The cost of pharmaceutical care is managed through NADAC of the