



State of Louisiana
Louisiana Department of Health
Office of the Secretary

December 10, 2024

Via Statutorily Prescribed Email

To: The Honorable Patrick McMath, Chairman, Senate Health & Welfare Committee
The Honorable Dustin Miller, Chairman, House Health & Welfare Committee

From: Michael Harrington, MBA, MA
Secretary

Re: Second Report to Proposed Amendments to LAC 50:IX.15113 – Professional Services Program – Reimbursement Methodology

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the Proposed Amendments to Professional Services Program – Reimbursement Methodology, LAC 50:IX.15113.

A Notice of Intent on the proposed amendments was published in the October 20, 2024 issue of the *Louisiana Register* (LR 50:1559). No written comments were received and there was no request for a public hearing during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:966B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the October 20, 2024 Notice of Intent when it is published as a final rule in the January 20, 2025 issue of the *Louisiana Register*.

Please contact WaRene Kimbell, WaRene.Kimbell@la.gov if you have any questions or require additional information about this matter.

Cc: Kimberly Sullivan, Medicaid Director, LDH
Brian Bennett, Medicaid Deputy Director, LDH
Catherine Brindley, Medicaid Program Manager, LDH
Bethany Blackson, Chief of Staff, LDH
Andrea Trantham, Editor, *Louisiana Administrative Code*, Office of the State Register

ii. if there is no WAC available, the reimbursement rate will be 100 percent of the provider's current invoice for the dosage administered.

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 36:1252 (June 2010), amended LR 36:2282 (October 2010), LR 37:904 (March 2011), LR 39:3300, 3301 (December 2013), LR 41:541 (March 2015), LR 41:1119 (June 2015), LR 41:1291 (July 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 44:62 (January 2018), amended by the Department of Health, Bureau of Health Services Financing, LR 44:62 (January 2018), LR 47:477 (April 2021), LR 47:887 (July 2021), LR 48:1100 (April 2022), LR 51:

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, as it will facilitate easier access to cancer treatments and medications.

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, as it will facilitate easier access to cancer treatments and medications.

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 expected 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, but may reduce the total direct or indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since it provides reimbursement for physician administered drugs that were not previously covered.

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 November 29, 2024.

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Professional Services Program
Reimbursement Methodology
(LAC 50:IX.15113)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:IX.15113 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 reimbursement methodology in the Professional Services Program in order to allow coverage of physician-administered biosimilar drugs in Mary Bird Perkins Cancer Centers and establish the reimbursement methodology for their use.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter B. Physician Services

§15113. Reimbursement Methodology

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N. Effective for dates of service on or after January 20, 2025, the department allows for the coverage of certain physician administered drugs (specifically biosimilars) by all Mary Bird Perkins (MBP) Cancer Center locations throughout Louisiana. Coverage of biosimilar medications will be made for CPT codes listed on the Louisiana Medicaid MBP biosimilars fee schedule and reimbursement will be determined using the following methodology.

1. Reimbursement and periodic updates to the rates shall be made in accordance with the approved Louisiana Medicaid State Plan provisions governing physician-administered drugs in a physician office setting:

a. average sales price (ASP) plus 6 percent, for drugs appearing on the Medicare file;

b. reimbursement rates for drugs that do not appear on the Medicare file shall be determined utilizing the following alternative methods:

i. the wholesale acquisition cost (WAC) of the drug, if available;

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, November 11, 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 November 26, 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 November 11, 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

Kimberly Sullivan, JD
Medicaid Executive Director
2410#064

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Professional Services Program Reimbursement Methodology

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 \$869,430 for FY 24-25, \$2,312,157 for FY 25-26, and \$2,358,400 for FY 26-27. It is anticipated that \$540 (\$270 SGF and \$270 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 reimbursement methodology in the Professional Services Program in order to allow coverage of physician administered biosimilar drugs in Mary Bird Perkins Cancer Centers and establish the reimbursement methodology for their use.

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 \$2,989,306 for FY 24-25, \$9,215,463 for FY 25-26, and \$9,399,772 for FY 26-27. It is anticipated that \$270 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 reimbursement methodology in the Professional Services Program in order to allow coverage of physician administered biosimilar drugs in Mary Bird Perkins Cancer Centers and establish the reimbursement methodology for their use. This is anticipated to be a positive impact on beneficiaries it will facilitate easier access to cancer treatments and medications. Providers will benefit from implementation of this proposed rule, since it is anticipated to increase Medicaid payments to specified hospitals by approximately \$3,858,196 for FY 24-25, \$11,527,619 for FY 25-26, and \$11,758,172 for FY 26-27.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule has no known effect on competition and employment.