



State of Louisiana
Louisiana Department of Health
Office of the Secretary

To: The Honorable John Bel Edwards, Governor, State of Louisiana
The Honorable Jeff Landry, Attorney General, Louisiana Department of Justice
The Honorable Patrick Page Cortez, President, Louisiana Senate
(apa.senatepresident@legis.la.gov)
The Honorable Clay Schexnayder, Speaker, Louisiana House of Representatives (apa.housespeaker@legis.la.gov)
Catherine Brindley, Editor, *Louisiana Register* (reg.submission@la.gov)
Senate Health and Welfare Committee (apa.s-h&w@legis.la.gov)
House Health and Welfare Committee (apa.h-hw@legis.la.gov)

From: Dr. Courtney N. Phillips, Secretary, Louisiana Department of Health

Date: December 23, 2020

Re: Justification of Promulgation of Emergency Rule
LAC 50: IX. 8305, 8505, 15113 and XXIX. Chapter 9

MEMORANDUM

In accordance with the Administrative Procedure Act (La. R.S. 49:950 *et seq.*) as amended, the Louisiana Department of Health, Bureau of Health Services Financing, is submitting the following emergency rule that amends LAC 50: IX.8305, 8505, 15113 and XXIX. Chapter 9.

This action is being taken as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring access to vaccines during a declared health emergency.

Should you have any questions or require additional information regarding this matter, please do not hesitate to contact Marcus Bachhuber, MD, at Marcus.Bachhuber@la.gov and Sue Fontenot, LDH Pharmacist 4, at Sue.Fontenot@la.gov.

Attachments: Emergency Rule – LAC 50: IX.8305, 8505, 15113 and XXIX. Chapter 9

cc: Kelly Zimmerman, LDH Interim Medicaid Deputy Director
Jennifer Katzman, LDH Interim Senior Staff Advisor
Kimberly Humbles, LDH General Counsel
Stephen Russo, LDH Executive Counsel
Veronica Dent, LDH Medicaid Program Manager
Anita Dupuy, LDH Legislative Liaison
Catherine Brindley, *Louisiana Register* Editor, Office of the State Register

DECLARATION OF EMERGENCY

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

**Reimbursement for Vaccine Administration During a Declared
Public Health Emergency**
(LAC 50:IX.8305,8505,15113 and XXIX.Chapter 9)

The Department of Health, Bureau of Health Services Financing amends LAC 50:IX.8305, \$8505, \$15113, and XXIX.Chapter 9 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, Bureau of Health Services Financing amends the provisions governing reimbursement in the Professional Services and Pharmacy programs in order to adopt provisions governing vaccine administration during a declared public health emergency.

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring access to vaccines during a declared public health emergency. It is estimated that implementation of this Emergency Rule will have no programmatic costs for state fiscal year 2020-2021.

Effective December 23, 2020, the Department of Health, Bureau of Health Services Financing amends the provisions governing reimbursement the Professional Services and Pharmacy programs in order to adopt provisions governing vaccine administration during a declared public health emergency.

Title 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part IX. Professional Services Program
Subpart 7. Immunizations

Chapter 83. Children's Immunizations

§8305. Reimbursement Methodology

A. - D.4. ...

E. Administration of vaccines related to a declared public health emergency shall be reimbursed at up to 100 percent of the Louisiana Region 99 Medicare rate for the duration deemed necessary by the Medicaid Program to ensure access. If providers are required to purchase vaccines, the vaccines will be reimbursed.

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 35:71 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:96 (January

2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1289 (July 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

Chapter 85. Adult Immunizations

§8505. Reimbursement Methodology

A. - C.4. ...

D. Administration of vaccines related to a declared public health emergency shall be reimbursed at up to 100 percent of the Louisiana Region 99 Medicare rate for the duration deemed necessary by the Medicaid Program to ensure access. If providers are required to purchase vaccines, the vaccines will be reimbursed.

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 Public Health, LR 39:97 (January 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1290 (July 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

Chapter 151. Reimbursement Methodology

Subchapter B. Physician Services

§15113. Reimbursement Methodology

A. - N. ...

O. Administration of treatments related to a declared public health emergency shall be reimbursed at up to 100 percent of the Louisiana Region 99 Medicare rate for the duration deemed necessary by the Medicaid Program to ensure access.

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), LR 47:

Part XXIX. Pharmacy

Chapter 9. Methods of Payment

Subchapter H. Vaccines

§991. Vaccine Administration Fees

A. ...

B. Administration of vaccines related to a declared public health emergency shall be reimbursed at up to 100 percent of the Louisiana Region 99 Medicare rate for the duration deemed necessary by the Medicaid Program to ensure access.

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 36:1783 (August 2010), amended LR 40:82 (January 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1555 (August 2017), LR 46:345 (March 2020), LR 47:

\$993. Vaccine Reimbursement

A. Vaccines for ~~recipients~~ beneficiaries aged 19 and over shall be reimbursed at wholesale acquisition cost (WAC) or billed charges, whichever is the lesser amount.

B. Vaccines related to a declared public health emergency shall not be reimbursed if furnished at no cost to providers. When providers are responsible for purchasing the vaccine, the Medicaid Program shall reimburse.

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 40:82 (January 2014), amended LR 46:345 (March 2020), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

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 Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc 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

 12/23/20