

DECLARATION OF EMERGENCY

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

**Medicaid Eligibility
Optional Targeted Low-Income Children
(LAC 50:III.2319 and 10305)**

The Department of Health, Bureau of Health Services Financing adopts LAC 50:III.2329 and amends §10305 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.

Pursuant to Section 1902(a)(10)(A)(ii)(XIV) of Title XIX of the Social Security Act, the Department of Health, Bureau of Health Services Financing provides coverage under the Medicaid State Plan to individuals under the age of 19 who meet the definition of an optional targeted low-income child, as defined in 42 CFR 435.4, and who have household income at or below the income standard established by Louisiana Medicaid. The current maximum income standard is 212 percent of the federal poverty level (FPL).

The Department also provides coverage to uninsured children with household income up to 250 percent of the FPL under Title

XXI provisions through a combination of a Medicaid expansion and stand-alone Children's Health Insurance Program (CHIP) called the Louisiana Children's Health Insurance Program (LaCHIP).

Federal authority for CHIP ended on September 30, 2017 and has not been reauthorized. Because the federal authority has not been reauthorized, federal financial participation will no longer be available for CHIP expenditures once current funding has been exhausted. As a result of the lack of federal matching funds for LaCHIP, the department will terminate coverage of uninsured children under the Title XXI CHIP authority. Children who currently receive services through LaCHIP will be transitioned to the Optional Targeted Low-Income Children coverage group, and will continue to receive Medicaid with no break in coverage.

Hence, the Department of Health, Bureau of Health Services Financing proposes to adopt provisions governing Medicaid eligibility to increase the maximum income standard for the Optional Targeted Low-Income Children Coverage Group up to 250 percent of the FPL, and to incorporate cost sharing provisions. This Emergency Rule will also ensure compliance with the Administrative Procedure Act (R.S. 49:950 et seq) by codifying these provisions into the *Louisiana Administrative Code (LAC)* in a clear and concise manner.

This action is being taken to avoid imminent peril to the public health, safety or welfare of Medicaid recipients, and to ensure continued access to Medicaid coverage for CHIP children. It is estimated that implementation of this Emergency Rule will result in a state general fund expenditure increase of \$48,101,748 for state fiscal year 2017-18 as a result of CHIP enhanced federal funding not being reauthorized.

Effective December 28, 2017, the Department of Health, Bureau of Health Services Financing amends the provisions governing Medicaid eligibility in order to adopt provisions in a codified manner in the *LAC* for the Optional Targeted Low-Income Children coverage group, and to incorporate revisions for the transition of LaCHIP children to this coverage group.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part III. Eligibility
Subpart 3. Eligibility Groups and Factors

Chapter 23. Eligibility Groups and Medicaid Programs

§2319. Optional Targeted Low-Income Children

A. Section 1902(a)(10)(A)(ii)(XIV) of Title XIX of the Social Security Act established provisions for the coverage of uninsured individuals under the age of 19 who meet the definition of an optional targeted low-income child, pursuant to 42 CFR 435.4, through a Medicaid expansion program. The

department provides coverage to the Optional Targeted Low-Income Children (OTLC) group under the Medicaid State Plan.

B. Eligibility Criteria. The OTLC Medicaid expansion program provides coverage to individuals who meet the following criteria:

1. are under the age of 19;
2. are from families with income at or below 250 percent of the federal poverty level; and
3. do not meet Louisiana Medicaid's eligibility criteria in effect as of March 31, 1997.

C. Individuals qualifying under this eligibility group must not be eligible for Medicaid under any mandatory eligibility group.

D. Eligibility for the OTLC coverage group shall be determined by the modified adjusted gross income (MAGI) methodologies in accordance with Section 1004(a)(2) of the Patient Protection and Affordable Care Act (ACA) of 2010 and Section 36B(d)(2)(B) of the *Internal Revenue Code*.

E. Cost Sharing. Cost-sharing is applicable to certain families who receive coverage under the OTLC coverage group. Premiums are limited to no more than 5 percent of the family's annual income.

1. Premiums. When family income is between 217 percent and 250 percent of the federal poverty level, families

shall be responsible for paying a \$50 per month premium.

Prepayment is not required.

a. Premiums are due by the first of each month. If payment is not received by the tenth of the month, the responsible party shall be notified that coverage may be terminated if payment is not received by the twenty-first of the month.

2. A premium may be waived in any case where the agency determines that requiring the payment will create an undue hardship for the individual or family.

3. Non-payment of premiums may result in disenrollment from the OTLC Medicaid expansion program. Recipients shall be allowed a 60-day grace period prior to disenrollment for non-payment.

4. Premiums are not owed for any retroactive months of coverage.

5. Families whose eligibility has been terminated for non-payment of premiums must pay any outstanding premium balances for Medicaid-covered months before eligibility can be re-established, unless:

a. the liability has been canceled by the Bureau of Appeals or the Medicaid Recovery Unit; or

b. there has been a lapse in Medicaid coverage of at least 12 months.

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 44:

Subpart 5. Financial Eligibility

Chapter 103. Income

§10305. Income Disregards

A. - D. ...

E. Effective December 28, 2017, for applicants in the Optional Targeted Low-Income Children (OTLC) Medicaid expansion program with income above 250 percent of the federal poverty level (FPL), 5 percent of the FPL shall be disregarded from their income when determining financial eligibility for Medicaid.

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 34:1629 (August 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1898 (September 2009), LR 40:2260, 2261 (November 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele 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.

Rebekah E. Gee MD, MPH

Secretary