

DECLARATION OF EMERGENCY

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

**State Children's Health Insurance Program
Termination of Coverage
(LAC 50:III.Chapters 201 and 205)**

The Department of Health, Bureau of Health Services Financing repeals LAC 50:III.Chapters 201 and 205 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XXI 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.

Section 4901 of the Balanced Budget Act of 1997 [P.L. 105-33], established provisions for the Children's Health Insurance Program (CHIP) under Title XXI of the Social Security Act to provide health insurance coverage to uninsured, low-income children through an expansion of existing Medicaid programs, creation of stand-alone programs or a combination of both. The Department of Health, Bureau of Health Services Financing implemented a combination of both programs, called the Louisiana Children's Health Insurance Program (LaCHIP), which provided coverage to uninsured children up to 250 percent of the federal poverty level.

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 proposes to repeal the provisions of LAC 50:III.Chapters 201 and 205 in order to 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 upon the termination of this program, and will continue to receive Medicaid with no break in coverage.

This action is being taken to avoid a budget deficit in the Medical Assistance Program. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program for LaCHIP by approximately \$295,925,166 for state fiscal year 2017-18.

Effective December 28, 2017, the Department of Health, Bureau of Health Services Financing amends the provisions governing the Louisiana Children's Health Insurance Program in order to terminate coverage of uninsured children.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part III. Eligibility

Subpart 11. State Children's Health Insurance Program

Chapter 201. Louisiana Children's Health Insurance Program

(LaCHIP)—Phases 1-3

§20101. General Provisions

~~A. Section 4901 of the Balanced Budget Act of 1997, Public Law 105-33, established provisions under Title XXI of the Social Security Act to provide health insurance coverage to uninsured, low-income children through an expansion of existing Medicaid Programs, creation of stand-alone programs, or a combination of both. The department implemented the provisions of Title XXI as a Medicaid expansion program called the Louisiana Children's Health Insurance Program (LaCHIP).~~

~~B. Effective October 20, 1998, the department implemented phase one of LaCHIP which provides coverage to uninsured children with family income up to 133 percent of the federal poverty level.~~

~~C. Effective October 1, 1999, the department implemented phase two of LaCHIP which provides coverage to uninsured children with family income between 133 and 150 percent of the federal poverty level.~~

~~D. Effective January 1, 2001, the department implemented phase three of LaCHIP which provides coverage to uninsured children with family income up to 200 percent of the federal poverty level.~~ Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI of the Social Security Act.

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:659 (April 2008), repealed by the Department of Health, Bureau of Health Services Financing, LR 44:

§20103. Eligibility Criteria

~~A. The LaCHIP Medicaid program provides health insurance coverage to low income, uninsured children who meet the following criteria:~~

- ~~1. are under the age of 19;~~
- ~~2. are from families with income at or below 217 percent of the federal poverty level; and~~
- ~~3. do not meet the state's Medicaid eligibility criteria in effect as of March 31, 1997.~~

~~B. The following children are excluded from coverage under the LaCHIP Medicaid expansion:~~

- ~~1. those currently eligible for Medicaid;~~
- ~~2. those currently covered by other types of health insurance;~~
- ~~3. inmates of a public institution; and~~
- ~~4. patients in an institution for mental disease.~~

~~C. Children are considered uninsured, for the purpose of determining eligibility for LaCHIP, if they do not have creditable coverage for health insurance.~~

~~1. The department is adopting the definition of creditable coverage for health insurance, the definition for health insurance coverage and the exceptions to health insurance coverage as cited in Section 2110 of the Social Security Act which references 42 U.S.C. §300gg(c)(1), §300gg-91(b)(1), and §300 gg-91(c)(1).~~

~~D. Children shall not be considered uninsured if their creditable coverage is dropped within the three calendar months prior to application for LaCHIP benefits unless the reason for dropping the coverage is loss of the employment that provided access to insurance coverage.~~

~~1. For the purposes of this Rule, the term *loss of employment* shall include the following:~~

~~a. loss of employment due to a lay off, downsizing, resignation, firing, etc.;~~

~~b. death of the parent whose employment provided access to dependent coverage;~~

~~c. change of employment to an employer that does not provide an option for dependent coverage;~~

~~d. discontinuation of health benefits for all employees of the applicant's employer;~~

~~c. expiration of coverage periods established by the Consolidated Omnibus Reconciliation Act of 1985 (COBRA); or~~

~~f. termination of health benefits due to a long term disability of the parent whose employment provided access to dependent coverage.~~

~~E. Effective December 31, 2013 eligibility for LaCHIP shall be determined by modified adjusted gross income (MAGI) methodology 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~~[Repealed](#).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI of the Social Security Act.

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:659 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1292 (July 2015), repealed by the Department of Health, Bureau of Health Services Financing, LR 44:

Chapter 205. Louisiana Children's Health Insurance Program (LaCHIP)—Phase V

§20501. General Provisions

~~A. Effective April 1, 2008, the Department implements phase five of LaCHIP as a stand-alone program under the~~

~~provisions of title XXI of the Social Security Act to provide coverage to uninsured children with family income from 200 percent up to 250 percent of the federal poverty level.~~

~~B. The department retains the oversight and management of this LaCHIP expansion with health care benefits provided through the BAYOU HEALTH Program and behavioral health services provided through the Louisiana behavioral health partnership (LBHP).~~

~~C. Phase five is a cost sharing program. Families who are enrolled in phase five of LaCHIP will be responsible for paying premiums~~[Repealed](#).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI of the Social Security Act.

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:660 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1291 (July 2015), repealed by the Department of Health, Bureau of Health Services Financing, LR 44:

§20503. Eligibility Criteria

~~A. This LaCHIP stand-alone program provides health care coverage to uninsured children who meet the following criteria:~~

~~1. are under the age of 19;~~

~~2. have family income from 200 percent up to 250 percent of the federal poverty level~~

~~3. do not have creditable health insurance coverage;~~
and

~~4. are not eligible for any other Medicaid program.~~

~~B. For the purpose of determining eligibility for phase five of LaCHIP, children are considered to be uninsured if they do not have creditable health insurance at the time of application. Children shall not be considered uninsured if their creditable coverage is dropped within the 12 calendar months prior to application, unless the reason for dropping the coverage is considered to be involuntary loss of coverage. Loss of coverage for one of the following reasons shall be considered involuntary loss of coverage:~~

~~1. loss of coverage resulting from divorce or death of a parent;~~

~~2. the child reaches his maximum lifetime coverage amount;~~

~~3. expiration of coverage under a Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 continuation provision within the meaning given in 42 U.S.C. 300gg-91;~~

~~4. involuntary termination of health benefits due to:~~

~~a. a long-term disability or medical condition;~~

~~b. termination of employment, including lay-off or business closure; or~~

~~c. reduction in the number of hours of employment;~~

~~5. changing to a new employer who does not provide an option for dependent coverage; or~~

~~6. the family terminated health insurance coverage for the child because private insurance is not cost effective (the cost to the child's family for the coverage exceeded 10 percent of the family's income)~~Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI of the Social Security Act.

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:660 (April 2008), repealed by the Department of Health, Bureau of Health Services Financing, LR 44:

§20505. Covered Services

~~A. Children covered in phase five of the LaCHIP expansion shall receive health care benefits through an array of covered services offered by health plans participating in the BAYOU HEALTH Program, and behavioral health services administered by the statewide management organization under the LBHP. The following services shall be included:~~

~~1. inpatient hospital services:~~

~~a. pre certification is required for hospital admissions. Emergency services are covered if, upon review, presentation is determined to be life-threatening, resulting in admission to inpatient, partial hospital or intensive outpatient level of care;~~

~~2. outpatient hospital services:~~

~~a. the relative therapies require pre-certification;~~

~~3. physician services;~~

~~4. surgical procedures;~~

~~5. clinic services and other ambulatory health care services;~~

~~6. prescription drugs;~~

~~7. laboratory and radiological services;~~

~~8. pre natal care and pre pregnancy family services and supplies;~~

~~9. inpatient and outpatient behavioral health services other than those listed in any other provisions of §20503:~~

~~a. these services include those furnished in a state-operated mental hospital, residential facility or other 24 hour therapeutically-planned structural services. Pre-certification is required for these services. Emergency services are covered if, upon review, presentation is determined to be~~

~~life threatening, resulting in admission to inpatient, partial hospital or intensive outpatient level of care;~~

~~_____ b. inpatient and outpatient visits are limited to medically necessary services not to exceed a combined 52 visits per plan year for mental health and substance abuse services;~~

~~_____ 10. durable medical equipment;~~

~~_____ 11. nursing care services;~~

~~_____ 12. dental services;~~

~~_____ 13. inpatient substance abuse treatment services, including residential substance abuse treatment services;~~

~~_____ a. inpatient admissions must be pre-certified. Emergency services are covered if, upon review, presentation is determined to be life threatening, resulting in admission to inpatient, partial hospital or intensive outpatient level of care;~~

~~_____ b. inpatient days are limited to medically necessary services not to exceed a combined 45 visits per plan year for mental health and substance abuse services;~~

~~_____ 14. outpatient substance abuse treatment services:~~

~~_____ a. all services must be pre-certified;~~

~~_____ b. outpatient visits are limited to medically necessary services not to exceed a combined 52 visits per plan year for mental health and substance abuse services;~~

~~15. case management services;~~

~~16. physical therapy, occupational therapy and services for individuals with speech, hearing and language disorders;~~

~~a. physical and occupational therapy is limited to 50 visits per year and speech therapy is limited to 26 visits per year;~~

~~17. hospice care;~~

~~18. medical transportation; and~~

~~19. any other medically necessary medical, diagnostic, screening, preventive, restorative, remedial, therapeutic or rehabilitative services~~[Repealed](#).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI of the Social Security Act.

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:660 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1292 (July 2015), repealed by the Department of Health, Bureau of Health Services Financing, LR 44:

§20507. Cost Sharing

~~A. Phase five of LaCHIP is a cost sharing program with premiums limited to no more than 5 percent of the family's annual income.~~

~~B. The following cost sharing criteria shall apply.~~

~~1. Premiums. When family income is between 201 percent and 250 percent of the federal poverty level, families shall be responsible for paying a \$50 per month premium.~~

~~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.~~

~~C. Non payment of premiums may result in disenrollment from LaCHIP. Recipients shall be allowed a 60 day grace period prior to disenrollment for non payment~~[Repealed](#).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI of the Social Security Act.

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:661 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1292 (July 2015), repealed by the Department of Health, Bureau of Health Services Financing, LR 44:

§20509. Dental Services Reimbursement Methodology

~~A. Services covered in the LaCHIP Affordable Plan Dental Program shall be reimbursed at the lower of either:~~

~~1. the dentist's billed charges minus any third party coverage; or~~

~~2. the state's established schedule of fees, which is developed in consultation with the Louisiana Dental Association and the Medicaid dental consultants, minus any third party coverage.~~

~~B. Effective for dates of service on or after July 1, 2012, the reimbursement fees for LaCHIP Affordable Plan dental services shall be reduced to the following percentages of the 2009 National Dental Advisory Service comprehensive fee report 70th percentile, unless otherwise stated in this Chapter:~~

~~1. 65 percent for the following oral evaluation services:~~

~~a. periodic oral examination;~~

~~b. oral examination patients under 3 years of age; and~~

~~c. comprehensive oral examination new patients;~~

~~2. 62 percent for the following annual and periodic diagnostic and preventive services:~~

~~a. radiographs periapical, first film;~~

~~b. radiographs periapical, each additional film;~~

~~c. radiographs panoramic film;~~

~~d. diagnostic casts;~~

~~c. prophylaxis adult and child;~~
~~f. topical application of fluoride, adult and child (prophylaxis not included); and~~

~~g. topical fluoride varnish, therapeutic application for moderate to high caries risk patients (under 6 years of age);~~

~~3. 45 percent for the following diagnostic and adjunctive general services:~~

~~a. oral/facial image;~~

~~b. non intravenous conscious sedation; and~~

~~c. hospital call; and~~

~~4. 56 percent for the remainder of the dental services.~~

~~C. Removable prosthodontics and orthodontic services are excluded from the July 1, 2012 rate reduction.~~

~~D. Effective for dates of service on or after August 1, 2013, the reimbursement fees for LaCHIP Affordable Plan dental services shall be reduced by 1.5 percent of the rate on file July 31, 2013, unless otherwise stated in this Chapter.~~

~~1. The following services shall be excluded from the August 1, 2013 rate reduction:~~

~~a. removable prosthodontics; and~~

~~b. orthodontic services~~Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:1285 (May 2013), amended LR 40:1008 (May 2014), repealed 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