

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Ambulatory Surgical Centers (LAC 50:XI.Chapter 75)

The Department of Health, Bureau of Health Services Financing repeals LAC 50:XI.Chapter 75 and the April 20, 1977 Rule governing ambulatory surgical center services in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act, and as directed by Act 3 of the 2017 Second Extraordinary Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." 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 currently provides Medicaid reimbursement for

medically necessary preventive, diagnostic, therapeutic, rehabilitative or palliative outpatient services rendered in ambulatory surgical centers. In anticipation of a budgetary shortfall in state fiscal year (SFY) 2018-2019, the department has determined that it is necessary to promulgate an Emergency Rule to terminate Medicaid reimbursement for ambulatory surgical center services. This Emergency Rule will also repeal the provisions of the April 20, 1977 Rule governing ambulatory surgical center services.

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 by approximately \$15,641,124 for state fiscal year 2018-2019.

Effective July 1, 2018, the Department of Health, Bureau of Health Services Financing repeals all of the provisions governing Medicaid reimbursement for ambulatory surgical center services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 11. Ambulatory Surgical Centers

Chapter 75. Reimbursement

§7501. General Provisions

~~A. The services rendered by ambulatory surgical centers~~

~~must be medically necessary preventive, diagnostic, therapeutic, rehabilitative or palliative services furnished to an outpatient by or under the direction of a physician or dentist in a facility which is not part of a hospital but which is organized and operated to provide medical care to patients.~~

~~—— B. — This type of facility will not provide services or accommodations for patients to stay overnight. Therefore, the ambulatory surgical center shall have a system to transfer patients requiring emergency admittance or overnight care to a fully licensed and certified Title XIX hospital following any surgical procedure performed at the facility.~~

~~—— C. — Never Events. Effective for dates of service on or after July 1, 2012, the Medicaid Program will not provide reimbursement to ambulatory surgical centers for "never events" or medical procedures performed in error which are preventable and have a serious, adverse impact to the health of the Medicaid recipient. Reimbursement will not be provided when the following "never events" occur:~~

~~—— 1. — the wrong surgical procedure is performed on a patient;~~

~~—— 2. — surgical or invasive procedures are performed on the wrong body part; or~~

~~—— 3. — surgical or invasive procedures are performed on the wrong patient.~~ Repealed.

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 35:1888 (September 2009), amended LR 38:1961 (August 2012), repealed by the Department of Health, Bureau of Health Services Financing, LR 44:

§7503. Reimbursement Methodology

~~A. The reimbursement for surgical procedures performed in an ambulatory surgical center is a flat fee per service in accordance with the four payment groups established for ambulatory surgery services as specified on the Medicaid fee schedule.~~

~~1. The flat fee reimbursement is for facility charges only, which covers all operative functions associated with the performance of a medically necessary surgery including admission, patient history and physical, laboratory tests, operating room staffing, recovery room charges, all supplies related to the surgical care of the patient and discharge.~~

~~2. The flat fee excludes payments for the physician performing the surgery, the radiologist and the anesthesiologist when these professionals are not under contract with the ambulatory surgery center.~~

~~B. For those surgical procedures not included in the~~

~~payment groupings on the Medicaid fee schedule, the reimbursement is the established flat fee for the service.~~

~~— C. — Effective for dates of service on or after February 26, 2009, the reimbursement for surgical services provided by an ambulatory surgical center shall be reduced by 3.5 percent of the rate in effect on February 25, 2009, repealed 44:~~

~~— D. — Effective for dates of service on or after February 5, 2010, the reimbursement for surgical services provided by an ambulatory surgical center shall be reduced by 5 percent of the rate in effect on February 4, 2010.~~

~~— E. — Effective for dates of service on or after August 1, 2010, the reimbursement for surgical services provided by an ambulatory surgical center shall be reduced by 4.4 percent of the fee amounts on file as of July 31, 2010.~~

~~— F. — Effective for dates of service on or after January 1, 2011, the reimbursement for surgical services provided by an ambulatory surgical center shall be reduced by 2 percent of the fee amounts on file as of December 31, 2010.~~

~~— G. — Effective for dates of service on or after July 1, 2012, the reimbursement for surgical services provided by an ambulatory surgical center shall be reduced by 3.7 percent of the fee amounts on file as of June 30, 2012.~~ [Repealed.](#)

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 35:1889 (September 2009), amended LR 36:2278 (October 2010), LR 37:1572 (June 2011), LR 39:317 (February 2013), 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