

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Pediatric Day Health Care Program Termination (LAC 50:XV.Chapters 275-281)

The Department of Health, Bureau of Health Services Financing repeals LAC 50:XV.Chapters 275-281 in the Medical Assistance Program as authorized by R.S. 36:254, 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 an array of services designed to meet the medical, social and developmental needs of children up to the age of 21 who have complex medical conditions which

require skilled nursing care and therapeutic interventions on an ongoing basis through the Pediatric Day Health Care Program.

As a result 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 repeal the provisions governing the Pediatric Day Health Care Program in order to terminate these 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 \$30,326,012 for state fiscal year 2018-2019.

Effective July 1, 2018, the Department of Health, Bureau of Health Services Financing repeals the provisions governing the Pediatric Day Health Care Program in order to terminate the program.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 19. Pediatric Day Health Care Program

Chapter 275. General Provisions

§27501. Program Description and Purpose

~~A. Pediatric Day Health Care (PDHC) Services~~

~~1. An array of services that are designed to meet the medical, social and developmental needs of children up to the age of 21 who have a complex medical condition which~~

~~requires skilled nursing care and therapeutic interventions on an ongoing basis in order to:~~

~~_____ a. preserve and maintain health status;~~

~~_____ b. prevent death;~~

~~_____ c. treat/cure disease;~~

~~_____ d. ameliorate disabilities or other adverse health conditions; and/or~~

~~_____ e. prolong life.~~

~~_____ 2. PDHC services offer a community-based alternative to traditional long term care services or extended nursing services for children with medically complex conditions.~~

~~_____ B. These services are provided in a non-residential setting which is licensed as a PDHC facility and enrolled to participate in the Medicaid Program.~~ 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 36:1557 (July 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 43:83 (January 2017), repealed LR 44:

§27503. Recipient Criteria

~~A. In order to qualify for PDHC services, a Medicaid recipient must meet the following criteria. The recipient must:~~

~~_____ 1. be from birth up to 21 years of age;~~

~~2. have a medically complex condition which involves one or more physiological or organ systems and requires skilled nursing and therapeutic interventions performed by a knowledgeable and experienced licensed professional registered nurse (RN) or licensed practical nurse (LPN) on an ongoing basis in order to:~~

~~a. preserve and maintain health status;~~

~~b. prevent death;~~

~~c. treat/cure disease;~~

~~d. ameliorate disabilities or other adverse health conditions; and/or~~

~~e. prolong life;~~

~~3. have a signed physician's order and plan of care, not to exceed 90 days, for pediatric day health care by the recipient's physician specifying the frequency and duration of services; and~~

~~4. be stable for outpatient medical services in a home or community-based setting.~~

~~B. If the medical director of the PDHC facility is also the child's prescribing physician, the department reserves the right to review the prescription for the recommendation of the child's participation in the PDHC Program.~~

~~C. Re-evaluation of PDHC services must be performed, at a minimum, every 90 days. This evaluation must include a review of~~

~~the recipient's current medical plan of care and provider agency documented current assessment and progress toward goals.~~

~~—— D. — A face-to-face evaluation shall be held every 90 days by the child's prescribing physician. Services shall be revised during evaluation periods to reflect accurate and appropriate provision of services for current medical status.~~

~~—— E. — Physician's orders for services are required to individually meet the needs of each recipient and shall not be in excess of the recipient's needs. Physician orders prescribing or recommending PDHC services do not, in themselves, indicate services are medically necessary or indicate a necessity for a covered service. Eligibility for participation in the PDHC Program must also include meeting the medically complex provisions of this Section.~~

~~—— F. — When determining the necessity for PDHC services, consideration shall be given to all of the services the recipient may be receiving, including waiver services and other community supports and services. This consideration must be reflected and documented in the recipient's treatment plan.~~ 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 36:1557 (July 2010), amended LR 41:137 (January 2015), amended by the

Department of Health, Bureau of Health Services Financing, LR
43:83 (January 2017), repealed LR 44:

Chapter 277. Services

§27701. Service Coverage and Limitations

~~A. The Medicaid Program will reimburse a pediatric day
health care facility for the following covered services:~~

- ~~1. nursing care;~~
- ~~2. respiratory care;~~
- ~~3. physical therapy;~~
- ~~4. speech-language therapy;~~
- ~~5. occupational therapy;~~
- ~~6. social services;~~
- ~~7. personal care services;~~
- ~~8. transportation to and from the PDHC facility; and~~
- ~~9. one or more meals and snacks per day depending on
the child's length of stay.~~

~~B. Non-Covered Services. The following services do not
qualify as covered PDHC services:~~

- ~~1. education and training services;~~
- ~~2. before and after school care;~~
- ~~3. medical equipment, supplies and appliances;~~
- ~~4. parenteral or enteral nutrition; or~~
- ~~5. infant food or formula.~~

~~C. PDHC facility services must be prescribed by the recipient's prescribing physician and an individualized plan of care must be developed for the recipient by the PDHC facility.~~

~~D. PDHC services must be prior authorized by the Medicaid Program or its approved designee. Services provided without authorization shall not be considered for reimbursement, except in the case of retroactive Medicaid eligibility.~~

~~E. Service Limitations. Services may be provided seven days per week and up to 12 hours per day for qualified Medicaid recipients as documented in the plan of care.~~ 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 36:1557 (July 2010), repealed by the Department of Health, Bureau of Health Services Financing, LR 44:

Chapter 279. Provider Participation

§27901. General Provisions

~~A. In order to participate in the Medicaid Program, a facility must have a current, valid PDHC facility license issued by the department. Each PDHC facility site shall be separately enrolled in the Medicaid Program.~~

~~B. A parent, legal guardian or legally responsible person providing care to a medically complex child in a home or any other extended care or long-term care facility, is not~~

~~considered to be a PDHC facility and shall not be enrolled in the Medicaid Program as a PDHC services provider.~~

~~—— C. All enrolled PDHC services providers must comply with all of the licensing standards adopted for pediatric day health care facilities.~~ 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 36:1558 (July 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 43:83 (January 2017), repealed LR 44:

Chapter 281. Reimbursement Methodology

§28101. General Provisions

~~A. Reimbursement for PDHC services shall be a statewide fixed per diem rate which is based on the number of hours that a qualified recipient attends the PDHC facility.~~

~~—— 1. A full day of service is more than six hours, not to exceed a maximum of 12 hours per day.~~

~~—— 2. A partial day of service is six hours or less per day.~~

~~—— B. Reimbursement shall only be made for services authorized by the Medicaid Program or its approved designee.~~

~~—— C. Effective for dates of service on or after July 1, 2012, the reimbursement for pediatric day health care services~~

~~shall be reduced by 3.7 percent of the rates in effect on 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 36:1558 (July 2010), amended LR 39:1286 (May 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 43:83 (January 2017), repealed 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