



## State of Louisiana

Louisiana Department of Health  
Office of the Secretary

The Honorable John Bel Edwards, Governor, State of Louisiana (Via email)

The Honorable Jeff Landry, Attorney General, Louisiana Department of Justice (Via email)

The Honorable Patrick Page Cortez, President, Louisiana Senate  
([apa.senatepresident@legis.la.gov](mailto:apa.senatepresident@legis.la.gov))

The Honorable Clay Schexnayder, Speaker, Louisiana House of Representatives  
([apa.housespeaker@legis.la.gov](mailto:apa.housespeaker@legis.la.gov))

Catherine Brindley, Editor, *Louisiana Register* ([reg.submission@la.gov](mailto:reg.submission@la.gov))

Senate Health and Welfare Committee ([apa.s-h&w@legis.la.gov](mailto:apa.s-h&w@legis.la.gov))

House Health and Welfare Committee ([apa.h-hw@legis.la.gov](mailto:apa.h-hw@legis.la.gov))

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

Date: September 21, 2020

*Cindy Rives*

Re: Justification of Promulgation of Emergency Rule  
LAC 48:I.5038 – Provisions for Services to Clients Outside of Licensed Geographic Area in Event of a Gubernatorial Declared State of Emergency or Disaster

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### MEMORANDUM

In accordance with the Administrative Procedure Act (La. R.S. 40: 950 *et seq.*) as amended, the Louisiana Department of Health, Bureau of Health Services Financing, is submitting the following emergency rule that amends LAC 48:I.5038.

This action is being taken as authorized by R.S. 36:254 and RS 40:2120.2. The Department of Health, Bureau of Health Services Financing amends the provisions governing the licensing standards for home and community-based services (HCBS) providers in order to adopt provisions to allow licensed HCBS providers to operate and provide services outside of their licensed geographic areas to existing clients who have evacuated or temporarily relocated to another location in the state due to a gubernatorial declared state of emergency or disaster in Louisiana.

This action is being taken to promote the health and welfare of Louisiana citizens by assuring continued access to home and community-based services during a declared emergency or disaster.

LAC 48:I.5038 – Provisions for Services to Clients Outside of Licensed Geographic Area  
in Event of a Gubernatorial Declared State of Emergency or Disaster  
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Should you have any questions or require additional information regarding this matter, please do not hesitate to contact Cecile Castello, LDH Assistant Secretary, Health Standards, at [Cecile.Castello@la.gov](mailto:Cecile.Castello@la.gov) or (225) 342-499.

Attachments: Emergency Rule – LAC 48:I.5038

Cc: Cecile Castello, RN, Director, Health Standards Section, Department of Health  
Brenda Blanchard, BSN, RN, Medical Certification Manager, Health Standards Section, Department of Health  
Kimberly Humbles, Esq., General Counsel, Department of Health  
Anita Dupuy, Legislative Liaison, Department of Health  
Catherine Brindley, *Louisiana Register* Editor, Office of the State Register

## **DECLARATION OF EMERGENCY**

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

#### **Home and Community-Based Services Providers Licensing Standards (LAC 48:I.5038)**

The Department of Health, Bureau of Health Services Financing adopts LAC 48:I.5038 as authorized by R.S. 36:254 and R.S. 40:2120.2. 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 the licensing standards for home and community-based services (HCBS) providers in order to adopt provisions to allow licensed HCBS providers to operate and provide services outside of their licensed geographic areas to existing clients who have evacuated or temporarily relocated to another location in the state due to a gubernatorial declared state of emergency or disaster in Louisiana.

This action is being taken to promote the health and welfare of Louisiana citizens by assuring continued access to home and community-based services during a declared emergency or disaster. It is estimated that implementation of this Emergency

Rule will have no programmatic costs for state fiscal year 2020-2021.

Effective September 21, 2020, the Department of Health, Bureau of Health Services Financing adopts provisions to allow licensed home and community-based services providers to operate outside of their licensed geographic areas in the event of a gubernatorial declared state of emergency or disaster in Louisiana.

## **Title 48**

### **PUBLIC HEALTH-GENERAL**

#### **Part I. General Administration**

#### **Subpart 3. Licensing and Certification**

### **Chapter 50. Home and Community-Based Services Providers**

#### **Licensing Standards**

#### **Subchapter C. Admission, Transfer and Discharge Criteria**

#### **§5038. Provisions for Services to Clients Outside of Licensed Geographic Area in Event of a Gubernatorial Declared State of Emergency or Disaster**

A. To ensure the health and safety of clients, and the coordination and continuation of services to clients, during a gubernatorial declared state of emergency or disaster in Louisiana, the department, through written notice sent electronically to licensed HCBS providers, may allow a licensed HCBS provider to operate and provide services to existing clients who are receiving personal care services and respite

services and who have evacuated or temporarily relocated to another location in the state when the following apply:

1. the client has evacuated or temporarily relocated to a location outside of the provider's licensed region due to the declared state of emergency or disaster;

2. the client shall have been a client of the HCBS provider as of the date of the declared emergency or disaster, with an approved plan of care;

3. the client's existing caregiver(s) go with the client or provide services to the client at the client's temporary location;

4. the provider is responsible for ensuring that all essential care and services, in accordance with the plan of care, are provided to the client, and the provider shall have sufficient staff and back-up caregivers available to provide services; and

5. the provider shall not interfere with the client's right to choose a provider of his/her choice if the client elects a new HCBS provider in the area where the client relocates. The provider shall facilitate client's selection.

B. The provisions of this Section shall not apply to providers of center based respite services.

C. To ensure the health and safety of clients, and the coordination and continuation of services to clients, during a

gubernatorial declared state of emergency or disaster in Louisiana, the department, through written notice sent electronically to licensed HCBS providers, may allow a licensed HCBS provider to operate and provide services to existing clients who are receiving supervised independent living services (SIL) and who have evacuated or temporarily relocated to another location in the state when the following apply:

1. the client has evacuated or temporarily relocated to a location outside of the provider's licensed region due to the declared state of emergency or disaster;

2. the client shall have been a client of the HCBS provider as of the declared state of emergency or disaster, with an approved plan of care;

3. the provider has sufficient and qualified staff to provide SIL services at the client's temporary location;

4. the provider is responsible for ensuring that all essential SIL services, in accordance with the plan of care, are provided to the client; and

5. the provider shall not interfere with the client's right to choose a provider of his/her choice if the client elects a new HCBS provider in the area where the client relocates. The provider shall facilitate client's selection.

D. Under the provisions of this Section, the department's initial written notice to licensed HCBS providers to authorize

these allowances shall be for a period not to exceed 45 days.  
The department may extend this initial period, not to exceed an  
additional 45 days, upon written notice sent electronically to  
the licensed HCBS providers.

E. Under the provisions of this Section, the department  
in its discretion may authorize these allowances statewide or to  
certain affected parishes.

F. An HCBS provider who wants to provide services to a  
client that has temporarily relocated out of state must contact  
that state's licensing/certification department to obtain any  
necessary licensing and/or certification before providing  
services in that state.

AUTHORITY NOTE: Promulgated in accordance with R.S.  
36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health  
and Hospitals, Bureau of Health Services Financing, LR 46:

Interested persons may submit written comments to Cecile  
Castello, Health Standards Section, P.O. Box 3767, Baton Rouge,  
LA 70821. Ms. Castello 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

*Allen G*  
*September 21, 2020*