

RULE

**Department of Health
Bureau of Health Services Financing
and
Office for Citizens with Developmental Disabilities**

**Early and Periodic Screening, Diagnosis and Treatment
Health Services
EarlySteps Reimbursement Rate Increase
(LAC 50:XV.7107)**

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities have amended LAC 50:XV.7101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment

Chapter 71. Health Services

§7107. EarlySteps Reimbursement

A. Effective for dates of service on or after January 1, 2011, the reimbursement for certain Medicaid-covered health services rendered in the EarlySteps Program shall be reduced by 2 percent of the rate in effect on December 31, 2010.

1. The following services rendered in the natural environment shall be reimbursed at the reduced rate:

- a. audiology services;
- b. speech pathology services;
- c. occupational therapy;
- d. physical therapy; and
- e. psychological services.

2. Services rendered in special purpose facilities/inclusive child care and center-based special purpose facilities shall be excluded from this rate reduction.

B. Effective for dates of service on or after July 1, 2022, the reimbursement for Medicaid covered health services rendered in the EarlySteps Program (Part C of IDEA) shall be increased by 30 percent of the rate in effect on January 1, 2011.

1. The increased rate shall be applied to services provided in the following settings :

a. natural environment that includes a child's home and settings in the community where children of the same age with no disabilities or special needs participate;

b. special purpose facility/inclusive child care that includes settings such as a child care center, nursery schools, or preschools where at least 50 percent of the children have no disabilities or developmental delays, and

c. center-based special purpose facility that is a facility where only children with disabilities or developmental delays are served.

2. The following services shall be reimbursed at the increased rate:

- a. audiology services;
- b. speech language pathology services;
- c. occupational therapy;
- d. physical therapy; and
- e. psychological services.

C. - C.2. 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, Office of the Secretary, Bureau of Health Services Financing, LR 30:800 (April 2004), amended LR 31:2030 (August 2005), LR 35:69 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1599 (June 2011), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:

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.

Dr. Courtney N. Phillips

Secretary

RULE

Department of Health Bureau of Health Services Financing

Intermediate Care Facilities for Persons with Intellectual Disabilities Dedicated Program Funding Pool Payments (LAC 50:VII.32917)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:VII.32917 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part VII. Long-Term Care

Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities

Chapter 329. Reimbursement Methodology

Subchapter A. Non-State Facilities

§32917. Dedicated Program Funding Pool Payments

A. - B.5. ...

C. Effective for providers active and Medicaid certified as of July 1, 2022, a one-time, lump sum payment will be made to non-state, non-public intermediate care facilities for individuals with intellectual disabilities (ICFs/IID).

1. Methodology

a. Payment will be based on each provider's specific pro-rated share of an additional dedicated program funding pool totaling \$27,974,178.

b. The pro-rated share for each provider will be determined utilizing the provider's percentage of program Medicaid days for dates of service in a three consecutive month period selected by the department occurring between January 1, 2022 and December 31, 2022.

c. If the additional dedicated program funding pool lump sum payments exceed the Medicare upper payment limit in the aggregate for the provider class, the department shall recoup the overage using the same means of distribution in §32917.C.1.b above.

d. The one-time payment will be made on or before June 30, 2023.

e. All facilities receiving payment shall be open and operating as an ICF/IID at the time the payment is made.

f. Payment of the one-time, lump sum payment is subject to approval by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS).

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 46:28 (January 2020, amended LR 48:

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.

Dr. Courtney N. Phillips

Secretary

RULE

Department of Health Bureau of Health Services Financing

Pediatric Day Health Care Licensing Standards (LAC 48:I.Chapter 52)

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.Chapter 52 as authorized by R.S. 36:254 and R.S. 40:2131-2141. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 48

PUBLIC HEALTH-GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 52. Pediatric Day Health Care Facilities

Subchapter B. Licensing Procedures

§5205. General Provisions

A. - G. ...

H. The PDHC facility shall provide for the installation and operation of cameras that record both video and audio at its licensed premises.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2761 (December 2009), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

§5213. Changes in Licensee Information or Personnel

A. - D.3. ...

E. Any request for a duplicate license must be accompanied by the appropriate fees.

F. - F.2. ...

G. A change of ownership of the PDHC facility shall not be submitted at the time of annual renewal of the PDHC facility's license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2763 (December 2009), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

Subchapter C. Administration and Organization

§5233. Policy and Procedures

A. - E.5. ...

F. The director of the PDHC facility shall develop and share with all facility employees and the parents or guardians of children served at the facility a policy relative to cameras

that record both video and audio at the facility that, at minimum, provides for all of the following:

1. the location and placement of cameras that record both video and audio in any room in which children may be cared for, except the interior of a restroom or any other area in which a child's bare body is normally exposed;

2. a requirement that written notice of the cameras that record both video and audio be provided to facility employees, the parents or guardians of children served at the facility, and authorized visitors;

3. a requirement that all employees who provide services at the facility receive training concerning the use of cameras that record both video and audio;

4. provisions relative to the duration of retention of video and audio data recorded by the devices required in §5205 and procedures for data storage and disposal;

5. procedures for protecting children's privacy and for determining to whom, and under what circumstances, video or audio data may be disclosed. Such policies shall restrict authorization to review video or audio data recorded by cameras at PDHC facilities to the following persons, exclusively:

- a. the director of the PDHC facility;
 - b. the secretary of the department or his/her designee;

c. the parents or guardians of a recorded child, pursuant to an allegation or evidence of abuse, neglect or injury;

d. any member of law enforcement while investigating, in his official capacity, an allegation or evidence of abuse, neglect or injury; and

e. any party designated in a subpoena issued by a court of law;

6. a requirement that any person who views a recording showing what he believes could be a violation of state or federal law shall report the suspected violation to the appropriate law enforcement agency;

7. a requirement that any cameras that record both video and audio installed pursuant to §5205 be in compliance with the National Fire Protection Association *Life Safety Code*, as adopted by the Office of State Fire Marshal; and

8. a requirement that any video and audio recordings made by cameras at PDHC facilities, installed and operated in accordance with §5205, shall be kept confidential and are not public records; however, such a recording may be viewed by a party designated in Subsection F.5 of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2768 (December 2009), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

Subchapter F. Facility Responsibilities

§5265. Staffing Requirements

A. - F.1.g. ...

2. Each direct care staff person employed by the facility shall have at least the following qualifications and experience:

a. - b. ...

c. be currently registered with the Certified Nurse Aide (CNA) Registry or Direct Service Worker (DSW) Registry as a CNA or DSW in good standing and without restrictions;

d. - e. ...

G. Nursing and Direct Care Staffing Levels

1. PDHC facilities shall have sufficient nursing and direct care staff to meet the needs of each infant and child receiving services in the PDHC facility in accordance with the plan of care.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2773 (December 2009), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

Subchapter G. Safety and Emergency Preparedness

§5281. Emergency Preparedness

A. - J.5. ...

K. Inactivation of License due to Declared Disaster or
Emergency

1. - 1.a.v. ...

b. the licensed PDHC facility resumes operating as a PDHC facility in the same service area within one year of the issuance of such an executive order or proclamation of emergency or disaster;

EXCEPTION: If the PDHC facility requires an extension of this timeframe due to circumstances beyond the PDHC facility's control, the department will consider an extended time period to complete construction or repairs. Such written request for extension shall show the PDHC facility's active efforts to complete construction or repairs and the reasons for request for extension of the PDHC facility's inactive license. Any approval for extension is at the sole discretion of the department.

1.c. - 2. ...

3. Upon completion of repairs, renovations, rebuilding or replacement of the facility, a PDHC facility which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

a. the PDHC facility shall submit a written license reinstatement request to the licensing agency of the department as soon as possible prior to the anticipated date of reopening;

b. ...

c. the license reinstatement request shall include a completed licensing application with approval from the Office of Public Health and the Office of State Fire Marshal; and

3.d. - 7. ...

L. Inactivation of Licensure due to a Non-Declared Disaster or Emergency

1. A PDHC facility in an area or areas which have been affected by a non-declared emergency or disaster may seek to inactivate its license, provided that the following conditions are met:

a. the PDHC facility shall submit written notification to the Health Standards Section (HSS) within 30

days of the date of the non-declared emergency or disaster stating that:

i. the PDHC facility has experienced an interruption in the provision of services as a result of events that are due to a non-declared emergency or disaster;

ii. the facility intends to resume operation as a PDHC facility in the same service area;

iii. the PDHC facility attests that the emergency or disaster is the sole causal factor in the interruption of the provision of services; and

iv. the PDHC facility's initial request to inactivate does not exceed one year for the completion of repairs, renovations, rebuilding or replacement of the facility.

NOTE: Pursuant to these provisions, an extension of the 30 day deadline for initiation of request may be granted at the discretion of the department.

b. the PDHC facility continues to pay all fees and costs due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties and/or civil fines; and

c. the PDHC facility continues to submit required documentation and information to the department, including but not limited to cost reports.

2. Upon receiving a completed written request to temporarily inactivate a PDHC facility's license, the department shall issue a notice of inactivation of license to the PDHC facility.

3. Upon receipt of the department's approval of request to inactivate the PDHC facility's license, the PDHC facility shall have 90 days to submit plans for the repairs, renovations, rebuilding or replacement of the facility, if applicable, to the OSFM and OPH as required.

4. The facility shall resume operating as a PDHC facility in the same service area within one year of the approval of renovation/construction plans by the OSFM and the OPH as required.

EXCEPTION: If the PDHC facility requires an extension of this timeframe due to circumstances beyond the PDHC facility's control, the department will consider an extended time period to complete construction or repairs. Such written request for extension shall show the PDHC facility's active efforts to complete construction or repairs and the reasons for request for extension of the PDHC facility's inactive license. Any approval for extension is at the sole discretion of the department.

5. Upon completion of repairs, renovations, rebuilding or replacement of the PDHC facility which has received a notice of inactivation of its license from the

department, the facility shall be allowed to reinstate its license upon the following conditions being met:

a. the PDHC facility shall submit a written license reinstatement request to the licensing agency of the department;

b. the license reinstatement request shall inform the department of the anticipated date of opening and shall request scheduling of a licensing or physical environment survey, where applicable; and

c. the license reinstatement request shall include a completed licensing application.

6. Upon receiving a completed written request to reinstate a PDHC facility's license, the department may conduct a licensing or physical environment survey. The department may issue a notice of reinstatement if the PDHC facility has met the requirements for licensure including the requirements of this Subsection.

7. No change of ownership (CHOW) of the PDHC facility shall occur until such PDHC facility has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as a PDHC facility.

8. The provisions of this Subsection shall not apply to a PDHC facility which has voluntarily surrendered its license and ceased operation.

9. Failure to comply with any of the provisions of this Subsection shall be deemed a voluntary surrender of the PDHC facility's license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2777 (December 2009), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

Dr. Courtney N. Phillips

Secretary

RULE

Department of Health Bureau of Health Services Financing

Pediatric Day Health Care Program Reimbursement Rate Increase (LAC 50:XV.28101)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:XV.28101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XV. Services for Special Populations Subpart 19. Pediatric Day Health Care Program

Chapter 281. Reimbursement Methodology

§28101. General Provisions

A. - B. ...

C. 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), LR 48:

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.

Dr. Courtney N. Phillips

Secretary

RULE

Department of Health Bureau of Health Services Financing

Pharmacy Benefits Management Program Copayment and Maximum Quantity (LAC 50:XXIX.111 and 119)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:XXIX.111 and §119 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXIX. Pharmacy

Chapter 1 General Provisions

§111. Copayment

A. - A.1. ...

2. The pharmacy provider shall collect a copayment from the Medicaid beneficiary for each drug dispensed and covered by Medicaid. The following pharmacy services are exempt from the copayment requirements:

a. - b. ...

c. family planning services;

d. preventive medications as designated by the U.S. Preventive Services Task Force's A and B recommendations; and

e. services provided during a federal public health emergency (PHE).

A.3. - B.5. ...

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, LR 32:1055 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1181 (June 2017), LR 43:1553 (August 2017), LR 46:34 (January 2020), LR 48:

§119. Maximum Quantity

A. ...

B. When maintenance drugs are prescribed and dispensed for chronic illnesses they shall be in quantities sufficient to effect economy in dispensing and yet be medically sound. Maintenance type drugs should be prescribed and dispensed in at least a month's supply after the initial fill. A 90-day supply is allowed on maintenance drugs after a beneficiary has been on the same drug and strength for 60 days. Contraceptives should be dispensed in a six-month supply, after a beneficiary has been on

the same drug and strength for six months, unless the beneficiary or prescriber requests a smaller supply.

C. For patients in nursing homes, the pharmacist shall bill for a minimum of a month's supply of medication unless the treating physician specifies a smaller quantity for a special medical reason. A 90-day supply is allowed on maintenance drugs after a beneficiary has been on the same drug and strength for 60 days.

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 32:1056 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1182 (June 2017), LR 46:34 (January 2020), LR 48:

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.

Dr. Courtney N. Phillips

Secretary

RULE

**Department of Health
Bureau of Health Services Financing
and
Office for Citizens with Developmental Disabilities**

**Targeted Case Management
Reimbursement Methodology
EarlySteps Reimbursement Rate Increase
(LAC 50:XV.10701)**

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities have amended LAC 50:XV.10701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

**PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 7. Targeted Case Management**

Chapter 107. Reimbursement

§10701. Reimbursement

A. Reimbursement for case management services for the Infant and Toddler Program (EarlySteps):

1. Effective for dates of service on or after July 1, 2022, case management services provided to participants in

the EarlySteps Program shall be reimbursed at a flat rate for each approved unit of service.

a. The standard unit of service is equivalent to one month and covers both service provision and administrative (overhead) costs.

b. Service provision includes the core elements in:

- i. §10301 of this Subpart;
- ii. the case management manual; and
- iii. EarlySteps practices.

A.2. - E. ...

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 30:1040 (May 2004), amended LR 31:2032 (August 2005), LR 35:73 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1903 (September 2009), LR 36:1783 (August 2010), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:97 (January 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3302 (December 2013), LR 40:1700, 1701 (September 2014), LR 41:1490

(August 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 44:63 (January 2018), LR 47:1128 (August 2021), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:

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.

Dr. Courtney N. Phillips

Secretary