

RULE

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

**Home and Community-Based Services Waivers
Children's Choice Waiver
Direct Support Worker Wages
(LAC 50:XXI.12101)**

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities have amended LAC 50:XXI.12101 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 XXI. Home and Community-Based Services Waivers
Subpart 9. Children's Choice**

Chapter 121. Reimbursement Methodology

§12101. Unit of Reimbursement

A. - B.4.a. ...

5. Direct Support Worker Wages

a. Establishment of Direct Support Worker Wage Floor for Medicaid Home and Community-Based Services for Intellectual and Developmental Disabilities

i. Effective October 1, 2021, providers of Medicaid home and community-based waiver services operated through the Office for Citizens with Developmental Disabilities employing defined direct support workers will receive the equivalent of a \$2.50 per hour rate increase.

ii. Effective October 1, 2021, this increase or its equivalent will be applied to all service units provided by direct support workers with an effective date of service for the identified home and community-based waiver services provided beginning October 1, 2021.

iii. The minimum hourly wage floor paid to direct support workers shall be \$9 per hour.

iv. All providers of services affected by this rate increase shall be subject to a direct support worker wage floor of \$9 per hour. This wage floor is effective for all affected direct support workers of any work status (full-time, part-time, etc.)

v. The Department of Health reserves the right to adjust the direct support worker wage floor as needed through appropriate rulemaking promulgation consistent with the Louisiana Administrative Procedure Act.

b. Establishment of Audit Procedures for Direct Support Worker Wage Floor

i. The wage enhancement payments reimbursed to providers shall be subject to audit by the department.

ii. Providers shall provide to the department or its representative all requested documentation to verify compliance with the direct support worker wage floor.

iii. This documentation may include, but not be limited to, payroll records, wage and salary sheets, check stubs, etc.

iv. Providers shall produce the requested documentation upon request and within the time frame provided by the department.

v. Noncompliance or failure to demonstrate that the wage enhancement was paid directly to direct support workers may result in:

(a). sanctions; or

(b). disenrollment in the Medicaid Program.

c. Sanctions

i. The provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend on:

(a). failure to pay I/DD HCBS direct support workers the floor minimum of \$9 per hour;

(b). the number of employees identified as having been paid less than the \$9 per hour floor;

(c). the persistent failure to pay the floor minimum of \$9 per hour; or

(d). failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this Rule.

d. New Opportunities Waiver Fund

i. The department shall deposit civil fines and the interest collected from providers into the New Opportunities Waiver Fund.

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 28:1987 (September 2002), LR 33:1872 (September 2007), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:250 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:324 (February 2010), LR 36:2280 (October 2010), LR 37:2157 (July

2011), LR 39:2504 (September 2013), LR 40:68 (January 2014), LR 41:128 (January 2015), LR 42:896 (June 2016), 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
and
Office for Citizens with Developmental Disabilities**

**Home and Community-Based Services Waivers
New Opportunities Waiver
Direct Support Worker Wages
(LAC 50:XXI.14301)**

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities have amended LAC 50:XXI.14301 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 XXI. Home and Community-Based Services Waivers
Subpart 11. New Opportunities Waiver**

Chapter 143. Reimbursement

§14301. Unit of Reimbursement

A. - E. ...

F. Direct Support Worker Wages

1. Establishment of Direct Support Worker Wage Floor for Medicaid Home and Community-Based Services for Intellectual and Developmental Disabilities

a. Effective October 1, 2021, providers of Medicaid home and community-based waiver services operated through the Office for Citizens with Developmental Disabilities employing defined direct support workers will receive the equivalent of a \$2.50 per hour rate increase.

b. Effective October 1, 2021, this increase or its equivalent will be applied to all service units provided by direct support workers with an effective date of service for the identified home and community based waiver services provided beginning October 1, 2021.

c. The minimum hourly wage floor paid to direct support workers shall be \$9 per hour.

d. All providers of services affected by this rate increase shall be subject to a direct support worker wage floor of \$9 per hour. This wage floor is effective for all affected direct support workers of any work status (full-time, part-time, etc.)

e. The Department of Health reserves the right to adjust the direct support worker wage floor as needed through appropriate rulemaking promulgation consistent with the Louisiana Administrative Procedure Act.

2. Establishment of Audit Procedures for Direct Support Worker Wage Floor

a. The wage enhancement payments reimbursed to providers shall be subject to audit by the department.

b. Providers shall provide to the department or its representative all requested documentation to verify compliance with the direct support worker wage floor.

c. This documentation may include, but not be limited to, payroll records, wage and salary sheets, check stubs, etc.

d. Providers shall produce the requested documentation upon request and within the time frame provided by the department.

e. Noncompliance or failure to demonstrate that the wage enhancement was paid directly to direct support workers may result in:

- i. sanctions; and
- ii. disenrollment in the Medicaid Program.

3. Sanctions

a. The provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend on:

- i. failure to pay I/DD HCBS direct support workers the floor minimum of \$9 per hour;
- ii. the number of employees identified as having been paid less than the \$9 per hour floor; or
- iii. the persistent failure to pay the floor minimum of \$9 per hour.

iv. failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this Rule.

4. New Opportunities Waiver Fund

a. The department shall deposit civil fines and the interest collected from providers into the New Opportunities Waiver Fund.

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 Community Supports and Services, LR 30:1209 (June 2004), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:252 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1851 (September 2009), LR 36:1247 (June 2010), LR 37:2158 (July 2011), LR 39:1049 (April 2013), LR 40:80 (January 2014), LR 42:898 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 44:58 (January 2018), LR 45:44 (January 2019), LR 46:1682 (December 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**

**Home and Community-Based Services Waivers
Residential Options Waiver
Direct Support Worker Wages
(LAC 50:XXI.16903)**

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities have amended LAC 50:XXI.16903 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 XXI. Home and Community-Based Services Waivers
Subpart 13. Residential Options Waiver**

Chapter 169. Reimbursement

§16903. Direct Support Professional Wages

A. Establishment of Direct Support Worker Wage Floor for Medicaid Home and Community Based Services for Intellectual and Developmental Disabilities

1. Effective October 1, 2021, providers of Medicaid home and community-based waiver services operated through the

Office for Citizens with Developmental Disabilities employing defined direct support workers will receive the equivalent of a \$2.50 per hour rate increase.

2. Effective October 1, 2021, this increase or its equivalent will be applied to all service units provided by direct support workers with an effective date of service for the identified home and community based waiver services provided beginning October 1, 2021.

3. The minimum hourly wage floor paid to direct support workers shall be \$9 per hour.

4. All providers of services affected by this rate increase shall be subject to a direct support worker wage floor of \$9 per hour. This wage floor is effective for all affected direct support workers of any work status (full-time, part-time, etc.)

5. The Department of Health reserves the right to adjust the direct support worker wage floor as needed through appropriate rulemaking promulgation consistent with the Louisiana Administrative Procedure Act.

B. Establishment of Audit Procedures for Direct Support Worker Wage Floor

1. The wage enhancement payments reimbursed to providers shall be subject to audit by the department.

2. Providers shall provide to the department or its representative all requested documentation to verify compliance with the direct support worker wage floor.

3. This documentation may include, but not be limited to, payroll records, wage and salary sheets, check stubs, etc.

4. Providers shall produce the requested documentation upon request and within the time frame provided by the department.

5. Noncompliance or failure to demonstrate that the wage enhancement was paid directly to direct support workers may result in:

- a. sanctions; or
- b. disenrollment in the Medicaid Program.

C. Sanctions

1. The provider will be subject to sanctions or penalties for failure to comply with this rule or with requests issued by LDH pursuant to this rule. The severity of such action will depend on:

- a. failure to pay I/DD HCBS direct support workers the floor minimum of \$9 per hour;
- b. the number of employees identified as having been paid less than the \$9 per hour floor;

c. the persistent failure to pay the floor minimum of \$9 per hour; or

d. failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this rule.

D. New Opportunities Waiver Fund

1. The department shall deposit civil fines and the interest collected from providers into the New Opportunities Waiver Fund.

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 for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2169 (October 2015), LR 42:900 (June 2016), 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
and
Office for Citizens with Developmental Disabilities**

**Home and Community-Based Services Waivers
Supports Waiver
Direct Support Worker Wages
(LAC 50:XXI.6101)**

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities have amended LAC 50:XXI.6101 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 XXI. Home and Community-Based Services Waivers
Subpart 5. Supports Waiver**

Chapter 61. Reimbursement

§6101. Unit of Reimbursement

A. - G. ...

H. Direct Support Worker Wages

1. Establishment of Direct Support Worker Wage Floor for Medicaid Home and Community-Based Services for Intellectual and Developmental Disabilities

a. Effective October 1, 2021, providers of Medicaid home and community-based waiver services operated through the Office for Citizens with Developmental Disabilities employing defined direct support workers will receive the equivalent of a \$2.50 per hour rate increase.

b. Effective October 1, 2021, this increase or its equivalent will be applied to all service units provided by direct support workers with an effective date of service for the identified home and community-based waiver services provided beginning October 1, 2021.

c. The minimum hourly wage floor paid to direct support workers shall be \$9 per hour.

d. All providers of services affected by this rate increase shall be subject to a direct support worker wage floor of \$9 per hour. This wage floor is effective for all affected direct support workers of any work status (full-time, part-time, etc.)

e. The Department of Health reserves the right to adjust the direct support worker wage floor as needed through appropriate rulemaking promulgation consistent with the Louisiana Administrative Procedure Act.

2. Establishment of Audit Procedures for Direct Support Worker Wage Floor

a. The wage enhancement payments reimbursed to providers shall be subject to audit by the department.

b. Providers shall provide to the department or its representative all requested documentation to verify compliance with the direct support worker wage floor.

c. This documentation may include, but not be limited to, payroll records, wage and salary sheets, check stubs, etc.

d. Providers shall produce the requested documentation upon request and within the time frame provided by the department.

e. Noncompliance or failure to demonstrate that the wage enhancement was paid directly to direct support workers may result in:

i. sanctions; or

ii. disenrollment in the Medicaid program.

3. Sanctions

a. The provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend on:

i. failure to pay I/DD HCBS direct support workers the floor minimum of \$9 per hour;

ii. the number of employees identified as having been paid less than the \$9 per hour floor;

iii. the persistent failure to pay the floor minimum of \$9 per hour; or

iv. failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this rule.

4. New Opportunities Waiver Fund

a. The department shall deposit civil fines and the interest collected from providers into the New Opportunities Waiver Fund.

I. ...

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, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended LR 34:662 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:2281 (October 2010), LR 37:2158 (July 2011), LR 39:1050 (April 2013), LR 40:82 (January 2014), LR 40:2587 (December 2014), LR 42:900 (June 2016), 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