RULE

Department of Health
Bureau of Health Services Financing

Healthcare Services Provider Fees
Emergency Ground Ambulance Service Providers
(LAC 48:I.4001)

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.4001 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 48

PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 1. General

Chapter 40. Provider Fees

§4001. Specific Fees

A. Definitions

Emergency Ground Ambulance Service Provider—a non-public, non-federal provider of emergency ground ambulance services.

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B. – D. ...

E. Emergency Ground Ambulance Services. A fee shall be imposed on emergency ground ambulance services in accordance with R.S. 46:2626.

1. The assessment shall be a percentage fee, determined at the discretion of the secretary with the express and written mutual agreement of the emergency ground ambulance service providers subject to the assessment and which make up a minimum of 65 percent of all emergency ground ambulance services in the state of Louisiana.

a. the maximum fee allowable in any year shall not exceed the percentage of net patient service revenues permitted by federal regulation pursuant to 42 CFR 433.68 as determined by the department, as reported by the provider and subject to audit for the previous fiscal year of the provider. The department will arrive at net patient services revenue by using net operating revenue as defined in R.S. 46:2626.

1.b. – 3.a. Repealed.

F. – F.3. ...

AUTHORITY NOTE: Promulgated in accordance with Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2625 and P.L. 102-234, R.S. 36:254, and Article VII, Section 10.13 of the Constitution of Louisiana.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 19:347 (March 1993), amended LR 20:51 (January 1994), LR 26:1478 (July 2000), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:100 (January 2007), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1887, 1888 (November 2016), LR 43:73 (January 2017), repromulgated LR 43:323 (February 2017), amended LR 44:1015 (June 2018), LR 44:1894 (October 2018), LR 45:1597 (November 2019), LR 49:263 (February 2023), LR 49:

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.

Stephen R. Russo, JD

Secretary

RULE

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

Home and Community-Based Services Waivers
Fiscal Employer Agent Standards for Participation
(LAC 50:XXI.Chapter 11)

The Department of Health, Bureau of Health Services Financing, the Office of Aging and Adult Services, and the Office for Citizens with Developmental Disabilities have adopted LAC 50:XXI.Chapter 11 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 1. General Provisions

Chapter 11. Fiscal Employer Agent Standards for Participation in Home and Community-Based Services Waiver Programs

Subchapter A. General Provisions

§1101. Introduction

A. The Department of Health (LDH) establishes these minimum standards for participation as a fiscal employer agent

(F/EA). These standards provide the core requirements for financial management services provided under home and community-based services waiver programs administered by the Office of Aging and Adult Services (OAAS), the Office for Citizens with Developmental Disabilities (OCDD), and the Bureau of Health Services Financing (BHSF).

B. LDH is responsible for setting the standards for F/EAs, monitoring the provisions of this Rule, and applying administrative sanctions for failures to meet the minimum standards for participation in serving employers/participants of the OAAS and OCDD-administered waiver programs.

C. The F/EA provides financial management services for participants who are eligible for self-directed waiver services. Under this service model, the F/EA assists individuals with management of fiscal employment and/or budget responsibilities and will provide the employer/participant with current utilization information to ensure self-directed services are not exceeded beyond the prior authorization cap; processes employer-related payroll and necessary taxes on behalf of self-direction participants. The F/EA also verifies qualifications (e.g., background checks, exclusion checks, etc.) for employees hired by the employers.

D. Medicaid-enrolled F/EAs providing financial management services at the time of OCDD and OAAS-administered waiver

programs shall be required to meet the requirements of this Chapter.

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, the Office of Aging and Adult Services, and the Office for Citizens with Developmental Disabilities, LR 49:

§1103. Certification Requirements

A. All F/EAs that provide financial management services must be certified through completion of a readiness review by LDH. It shall be unlawful to operate as an F/EA without being certified by LDH.

B. In order to provide financial management services, the F/EA must:

1. be certified through completion of a readiness review and meet the standards for participation requirements as set forth in this Rule;

2. sign a performance agreement with LDH;

3. enroll as an F/EA with the Louisiana Medicaid program to provide services for OCDD and OAAS-administered home and community-based services; and

4. comply with all policies and procedures set forth by LDH.

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, the Office of Aging and Adult Services, and the Office for Citizens with Developmental Disabilities, LR 49:

§1105. Certification Issuance

A. A certification shall:

1. be issued only to the F/EA named in the certification application;

2. be valid only for the F/EA to which it is issued after all applicable requirements are met;

3. enable the F/EA to provide financial management services for OCDD and OAAS-administered home and community-based services waivers statewide;

4. be valid indefinitely, unless revoked, suspended, modified, or terminated; and

5. be issued by LDH.

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, the Office of Aging and Adult Services, and the Office for Citizens with Developmental Disabilities, LR 49:

§1107. Certification Refusal or Revocation and Fair Hearing

A. A certification may be revoked or refused if applicable certification requirements, as determined by LDH, have not been met. Certification decisions are subject to appeal and fair hearing, in accordance with R.S. 46:107(A)(3).

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, the Office of Aging and Adult Services, and the Office for Citizens with Developmental Disabilities, LR 49:

§1109. Certification Review

A. Compliance with certification requirements is determined by LDH through its F/EA monitoring processes. Monitors must be given access to data upon request by LDH to ensure the F/EA continues to meet certification requirements.

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, the Office of Aging and Adult Services, and the Office for Citizens with Developmental Disabilities, LR 49:

Subchapter B. Administration and Organization

§1115. Governing Body

A. The F/EA shall have an identifiable governing body with responsibility for and authority over its policies and activities.

B. The F/EA shall have documents identifying all members of the governing body, their addresses, their terms of membership, and officers of the governing body.

C. The governing body of the F/EA shall:

1. ensure continual compliance and conformity with all relevant federal, state, local, and municipal laws and regulations;

2. ensure the F/EA is adequately funded and fiscally sound;

3. review and approve the F/EA’s annual budget; and

4. designate a person to act as administrator and delegate sufficient authority to this person to manage the F/EA.

D. The F/EA shall maintain an administrative file that includes:

1. documents identifying the governing body;

2. a list of members and officers of the governing body, along with their addresses and terms of membership;

3. minutes of formal meetings and by-laws of the governing body, if applicable;

4. documentation of the F/EA’s authority to operate under state law;

5. an organizational chart of the F/EA which clearly delineates the line of authority;

6. all leases, contracts and purchases-of-service agreements to which the F/EA is a party;

7. insurance policies;

8. annual budgets and, if performed, audit reports;

9. the F/EA's policies and procedures; and

10. documentation of any corrective action taken as a result of external or internal reviews.

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, the Office of Aging and Adult Services, and the Office for Citizens with Developmental Disabilities, LR 49:

§1117. Business Location and Operations

A. The F/EA shall have a business location which shall not be in an occupied personal residence. The F/EA must maintain the following at the business location:

1. staff to perform administrative functions;

2. direct service worker/employee personnel records; and

3. participant service records.

B. The F/EA shall have the following for the business

location:

1. a published nationwide toll-free telephone number that is available during business hours and capable of receiving messages 24 hours a day, seven days a week, including holidays;

2. a published business telephone number answered by staff during business hours;

3. a business fax number that is operational 24 hours a day, seven days a week, including holidays;

4. internet access;

5. a designated e-mail mailbox to receive inquiries from Medicaid beneficiaries and LDH; and

6. business hours shall be at least 8 a.m. to 5 p.m. CT, Monday through Friday, excluding official state holidays.

C. Records and other confidential information shall be secure and protected from unauthorized access.

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, the Office of Aging and Adult Services, and the Office for Citizens with Developmental Disabilities, LR 49:

§1119. Financial Management

A. The F/EA must establish a system of financial management and staffing to assure maintenance of complete and

accurate accounts, books, and records in keeping with generally accepted accounting principles.

B. The F/EA must not permit public funds to be paid, or committed to be paid, to any person who is a member of the governing board or administrative personnel who may have any direct or indirect financial interest, or in which any of these persons serve as an officer or employee, unless the services or goods involved are provided at a competitive cost or under terms favorable to the F/EA.

1. The F/EA shall have a written disclosure of any financial transaction with the F/EA in which a member of the governing board, administrative personnel, or his/her immediate family is involved.

C. To ensure the F/EA’s ability to pay direct service workers for waiver services delivered, the F/EA shall have and maintain documented evidence of an available line of credit of at least $1,000,000 or a cash reserve sufficient to cover the cost of two payroll cycles.

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, the Office of Aging and Adult Services, and the Office for Citizens with Developmental Disabilities, LR 49:

§1121. Policy and Procedures

A. The F/EA shall have written policies and procedures approved by the owner or governing body which must be implemented and followed that address at a minimum the following:

1. confidentiality and confidentiality agreements;

2. security of files;

3. publicity and marketing, including the prohibition of illegal or coercive inducement, solicitation, and kickbacks;

4. personnel;

5. grievance procedures;

6. emergency preparedness;

7. procedures for reporting suspected abuse, neglect, exploitation, and extortion;

8. procedures for reporting suspected fraud;

10. documentation; and

11. enrollment/disenrollment procedures.

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, the Office of Aging and Adult Services, and the Office for Citizens with Developmental Disabilities, LR 49:

§1123. Organizational Communication

A. The F/EA must establish procedures to assure adequate communication among staff to provide continuity of services to the participant and to facilitate feedback from staff, participants, families, and when appropriate, the community.

B. The F/EA must have brochures and make them available to LDH or its designee. The brochures must include the following information:

1. a toll-free number and email address to direct customer service questions or to receive assistance;

2. information on how to make a complaint if they are dissatisfied with F/EA services; and

3. a description of the F/EA, services provided, current mailing and physical addresses, website information, and the F/EA’s toll-free number.

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, the Office of Aging and Adult Services, and the Office for Citizens with Developmental Disabilities, LR 49:

Subchapter C. Provider Responsibilities

§1129. General Provisions

A. Any entity wishing to provide F/EA services shall meet

all of the standards for participation contained in this Rule, unless otherwise specifically noted within these provisions.

B. The F/EA shall also abide by and adhere to any federal and state law, Rule, policy, procedure, performance agreement, or other state or federal requirements pertaining to the provision of F/EA services.

C. Failure to comply with the requirements of these standards for participation may result in the following actions including, but not limited to:

1. recoupment of funds;

2. sanctions for violations/non-performance as outlined in the performance agreement;

3. citation of deficient practice and plan of correction submission;

4. removal from the F/EA freedom of choice list; or

5. decertification as an F/EA and termination of the F/EA's Medicaid provider enrollment.

D. The F/EA shall make any required information or records, and any information reasonably related to assessment of compliance with these requirements, available to LDH.

E. The F/EA shall, upon request by LDH, make available the legal ownership documents of the F/EA.

F. The F/EA must comply with all of LDH's systems/software requirements, including the following:

1. The F/EA is required to transmit all non-proprietary data which is relevant for analytical purposes to LDH on a regular schedule in XML format.

a. Final determination of relevant data will be made by LDH based on collaboration between all parties;

b. The schedule for transmission of the data will be established by LDH and dependent on the needs of LDH related to the data being transmitted;

c. XML files for this purpose will be transmitted via secure file transfer protocol (SFTP) to LDH; and

d. Any other data or method of transmission used for this purpose must be approved via written agreement by all parties.

2. The F/EA is responsible for procuring and maintaining hardware and software resources which are sufficient for it to successfully perform the services detailed in this Rule.

3. The F/EA shall adhere to state and federal regulations and guidelines as well as industry standards and best practices for systems or functions required to support the requirements of this Rule.

4. Unless explicitly stated to the contrary, the F/EA is responsible for all expenses required to obtain access to LDH systems or resources which are relevant to successful

completion of the requirements of this agreement. The F/EA is also responsible for expenses required for LDH to obtain access to the F/EA's systems or resources which are relevant to the successful completion of the requirements of this agreement. Such expenses are inclusive of hardware, software, network infrastructure, and any licensing costs.

5. The F/EA, for all confidential or protected health information, must be encrypted to federal information processing standards (FIPS) 140-2 standards when at rest or in transit.

6. The F/EA shall ensure appropriate protections of shared personally identifiable information (PII), in accordance with 45 CFR §155.260.

7. The F/EA shall ensure that its system is operated in compliance with the Centers for Medicare and Medicaid Services' (CMS) latest version of the minimum acceptable risk standards for exchanges (MARS-E) document suite.

8. Multi-factor authentication is a CMS requirement for all remote users, privileged accounts, and non-privileged accounts. In this context, remote user refers to staff accessing the network from offsite, normally with a client virtual private network (VPN) with the ability to access Medicaid and PII data.

9. A site-to-site tunnel is an extension of LDH's network. If the agent utilizes a VPN site-to-site tunnel and

also has remote users who access CMS data, the agent is responsible for providing and enforcing multi-factor authentication.

10. The F/EA owned resources must be compliant with industry standard physical and procedural safeguards (NIST SP 800-114, NIST SP 800-66, NIST 800-53A, ISO 17788, etc.) for confidential information (i.e., health information technology for economic and clinical health (HITECH), health insurance portability and accountability act (HIPAA) part 164).

11. Any F/EA use of flash drives or external hard drives for storage of LDH data must first receive written approval from LDH and upon such approval shall adhere to FIPS 140-2 hardware level encryption standards.

12. All F/EA utilized computers and devices must:

a. be protected by industry standard virus protection software that is automatically updated on a regular schedule;

b. have installed all security patches which are relevant to the applicable operating system and any other system software; and

c. have encryption protection enabled at the operating system level.

G. F/EAs shall, at a minimum:

1. demonstrate administrative capacity and the

financial resources to provide all core elements of financial management services and ensure effective service delivery in accordance with state and federal requirements;

2. have appropriate F/EA staff attend trainings, as mandated by LDH;

3. document and maintain records in accordance with federal and state regulations governing confidentiality and program requirements; and

4. assure that the F/EA will not provide both financial management services and support coordination or personal care services in Louisiana.

H. Abuse and Neglect. Fiscal employer agencies shall establish policies and procedures relative to the reporting of abuse, neglect, exploitation, and extortion of participants, pursuant to the provisions of R.S. 15:1504-1505, R.S. 40:2009.20 and any subsequently enacted laws. The F/EA shall ensure that staff complies with these regulations.

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, the Office of Aging and Adult Services, and the Office for Citizens with Developmental Disabilities, LR 49:

§1131. Fiscal Employer Agent Requirements

A. The F/EA must comply with requirements for financial management services in self-direction including, but not limited to:

1. verifying qualifications of employers and support workers;

2. processing payroll, including applying applicable withholds and filing/paying all required state and federal income taxes;

3. disbursing payment to direct support workers;

4. setting up accounting records to track expenses;

5. setting up procedures for processing payroll and non-labor items;

6. maintaining all records related to the direct support worker’s payroll, taxes, and benefits;

7. producing and sending required reports to LDH;

8. providing support to self-direction employers;

9. billing the LDH fiscal intermediary for Medicaid service claims and making refunds to LDH as appropriate;

10. resolving all billing discrepancies timely;

11. utilizing an LDH approved payroll calendar that addresses tax obligations; and

12. utilizing a system capable of capturing, recording, and tracking service, payroll, and tax information.

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, the Office of Aging and Adult Services, and the Office for Citizens with Developmental Disabilities, LR 49:

§1133. Transfers and Discharges

A. Participant has the right to choose among the F/EAs certified by LDH and enrolled in the Louisiana Medicaid Program. This includes the right to transition to another F/EA.

B. Upon notice by the participant or his/her authorized representative that the participant has selected another F/EA or the participant has decided to discontinue participation in the self-direction program, the F/EA is responsible for planning and facilitating the participant’s transfer or discharge.

C. The F/EA shall facilitate transfer to another F/EA when it ceases to operate or its Medicaid enrollment is terminated.

D. The transfer or transition responsibilities of the F/EA shall include:

1. working with the F/EA selected by the participant to transition by ensuring the following documents/information are submitted to the new provider: participant/employer wages, federal employment identification number (FEIN), and state

unemployment tax act (SUTA) account information including username and password;

2. ensuring that there is only one F/EA for a given employer at any time;

3. adhering to specific processes and procedures when transitioning a participant to a new F/EA in accordance with all federal, state, and local laws; and

4. documenting the activities that are required to transition the participant to the receiving F/EA.

E. The F/EA shall not coerce or attempt to influence the participant’s choice of F/EA. Failure to cooperate with the participant’s decision to transfer to another F/EA will result in adverse action by LDH.

F. If the F/EA ceases to operate, the F/EA must give LDH at least 60 days written notice of its intent to close.

1. The transition plan for all participants served by the F/EA shall be completed within 10 working days of the notice to LDH of the F/EA’s intent to close to minimize disruption of payroll services provided for employers.

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, the Office of Aging

and Adult Services, and the Office for Citizens with Developmental Disabilities, LR 49:

§1135. Staffing Requirements

A. F/EAs must maintain sufficient staff to comply with LDH regulations and policies for the self-direction program. The F/EA shall:

1. employ at least one staff member with a bachelor’s degree in accounting and five years of applicable experience, or a master’s degree in accounting and two years of applicable experience, or a master’s degree in accounting and two years of applicable experience;

2. must have on staff a database administer and sufficient programmers to ensure that systems comply with program requirements and are flexible enough to accommodate changes to those requirements; and

3. must designate a project director who will have day-to-day authority to manage the overall operations.

a. The project director will be available to LDH by telephone, e-mail, and video conferencing during regular business hours.

B. In the event LDH determines that the F/EA staffing levels do not conform to the above requirements, LDH shall advise the F/EA in writing and the F/EA shall submit a corrective action plan within five business days. This plan

shall describe how the deficiency(ies) will be remedied and is subject to LDH approval.

C. The F/EA shall ensure all staff supporting the self-direction program are not excluded from participating in the Medicaid program by confirming each staff's name and social security number are not included on the Louisiana adverse actions list and Office of Inspector General (OIG) exclusions list.

D. Each F/EA shall ensure that staff is available at times which are convenient and responsive to the needs of participants and their families.

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, the Office of Aging and Adult Services, and the Office for Citizens with Developmental Disabilities, LR 49:

§1137. Employer Rights

A. Each F/EA's written policies and procedures, at a minimum, shall ensure the employer's right to:

1. confidentiality;

2. privacy;

3. impartial access to F/EA services regardless of race, religion, sex, ethnicity, or disability;

4. access to the interpretive services, translated material and similar accommodations as appropriate;

5. access to his/her records upon the participant's written consent for release of information;

6. an explanation of the nature of services to be received;

7. file a complaint or grievance without retribution, retaliation, or discharge;

8. have access to information related to tracking their budget and service balance; and

9. discontinue services with their F/EA and choose another F/EA.

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, the Office of Aging and Adult Services, and the Office for Citizens with Developmental Disabilities, LR 49:

§1139. Grievances

A. The F/EA shall establish and follow a written grievance procedure to be used to process complaints by employers, their family member(s), or a legal representative that is designed to allow employers to make complaints without fear of retaliation. The written grievance procedure shall be

provided to the employer.

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, the Office of Aging and Adult Services, and the Office for Citizens with Developmental Disabilities, LR 49:

§1141. Electronic Visit Verification (EVV) Requirements

A. The F/EA must have an electronic visit verification (EVV) system in place that complies with the 21st Century Cures Act. The F/EA's EVV system must verify the type of service provided, the individual receiving the service, the individual providing the service, date of service, location of the service (geolocation), and time the service begins and ends.

B. Services may be verified via smart phone, telephony (landline from participant's home), or a fixed visit verification device in the participant's home. Other methods of verification may be submitted to LDH for consideration and approval.

C. The F/EA is responsible for ensuring the system used meets the requirements specified in the LDH attestation for third party EVV systems.

1. The system shall have the capability to interface with LDH's EVV system.

2. The F/EA’s system and its interface shall pass testing required by the data integration process prior to go-live.

3. The F/EA will be required to collect electronic check in/check out information including geolocation data in accordance with state requirements.

D. The F/EA must provide a user-friendly EVV system, including an alternate method of collecting time should the EVV system becomes unavailable.

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, the Office of Aging and Adult Services, and the Office for Citizens with Developmental Disabilities, LR 49:

§1143. Employer Records

A. The F/EA shall store employer/employee records securely and protected in accordance with HIPAA requirements at the F/EA’s place of business.

B. F/EAs shall maintain employer and employee records for at least six years or longer when required by state or federal law.

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, the Office of Aging and Adult Services, and the Office for Citizens with Developmental Disabilities, LR 49:

§1145. Emergency Preparedness

A. The F/EA, regardless of the architecture of its systems, shall develop and be continually ready to invoke an all hazards plan to protect the availability, integrity, and security of data during unexpected failures or disasters (either natural or man-made) to continue essential application or system functions during or immediately following failures or disasters.

B. The all hazards plan shall include a disaster recovery plan (DRP) and a business continuity plan (BCP). A DRP is designed to recover systems, networks, workstations, applications, etc., in the event of a disaster. A BCP shall focus on restoring the operational function of the organization in the event of a disaster and includes items related to information technology (IT), as well as operational items such as employee notification processes and the procurement of office supplies needed to do business in the emergency mode operation environment. The practice of including both the DRP and the BCP in the all hazards planning process is a best practice. At a minimum, the all hazards plan shall address the following scenarios:

1. the central computer installation and resident software are destroyed or damaged;

2. the system interruption or failure resulting from network, operating hardware, software, or operations errors that compromise the integrity of transaction that are active in a live system at the time of the outage; and

3. system interruption or failure resulting from network, operating hardware, software or operations errors that compromise the integrity of data maintained in a live or archival system.

C. The all hazards plan shall specify projected recovery times and data loss for mission-critical systems in the event of a declared disaster. The following minimum criteria are required:

1. system restoration within 24 hours;

2. two physical locations for maintaining data; and

3. backups of all system data every 24 hours.

D. The F/EA shall annually test its plan through simulated disasters and lower level failures in order to demonstrate to LDH that it can restore system functions. In the event the F/EA fails to demonstrate through these tests that it can restore system functions, the F/EA shall be required to submit a corrective action plan to LDH describing how the failure shall be resolved within 10 business days of the

conclusion of the test.

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, the Office of Aging and Adult Services, and the Office for Citizens with Developmental Disabilities, LR 49:

§1147. Fiscal Employer Agent Monitoring

A. F/EAs shall be monitored on an on-going basis as outlined in the performance agreement.

B. F/EAs shall offer full cooperation with LDH during the monitoring process.

C. Responsibilities of the F/EA in the monitoring process include, but are not limited to, providing policy and procedure manuals, employer/employee records, and other documentation as requested.

D. F/EAs shall cooperate with any audit requests from state or federal agencies.

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, the Office of Aging and Adult Services, and the Office for Citizens with Developmental Disabilities, LR 49:

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.

Stephen R. Russo, JD

Secretary

RULE

Department of Health
Bureau of Health Services Financing

Inpatient Hospital Services
Out-of-State Hospitals
(LAC 50:V.Chapter 24)

The Department of Health, Bureau of Health Services Financing has adopted LAC 50:V.Chapter 24 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 V. Hospital Services
Subpart 1. Inpatient Hospitals Services

Chapter 24. Out-of-State Hospitals

§2401. General Provisions

A. Effective for dates of service on or after September 20, 2023, payment will be made to out-of-state hospitals for provision of inpatient services which meet at least one of the following conditions:

1. medical services are needed because of a medical emergency;

2. medical services are needed and the beneficiaries' health would be endangered if they were required to travel to their state of residence;

3. the state determines, on the basis of medical advice, that the needed medical services, or necessary supplementary resources, are more readily available in the other state; or

4. it is general practice for beneficiaries in a particular locality to use medical resources in another state.

B. Hospitals located in counties in Mississippi, Arkansas, and Texas that border the state of Louisiana are referred to as trade area hospitals.

C. Trade area hospitals that are unable to fully treat presenting Louisiana beneficiaries shall transfer patients to the Louisiana hospital within the closest proximity with available services.

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 49:

§2403. Reimbursement Methodology

A. Effective for dates of service on or after September 20, 2023, payment for all out-of-state inpatient services, other than organ transplants, shall be made at the Louisiana in-state

prospective peer group rate in effect for the corresponding type of non-teaching hospital or specialty carve out service.

1. Separate prospective per diem rates will be paid for out-of-state inpatient services provided in acute care general hospitals, psychiatric hospitals and services, rehabilitation hospitals, long term acute care hospitals, children’s hospitals, nursery services, neonatal intensive care services, pediatric intensive care services, and burn unit intensive care services.

B. Effective for dates of service on or after September 20, 2023, payment for inpatient organ transplant service provided by out-of-state hospitals shall be paid as follows:

1. 40 percent of allowable covered billed charges for beneficiaries ages 21 and above; or

2. 60 percent of allowable covered billed charges for beneficiaries under age 21.

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 49:

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.

Stephen R. Russo, JD

Secretary

RULE

Department of Health
Bureau of Health Services Financing

Managed Care for Physical and Behavioral Health
Hospital Directed Payments
(LAC 50:I.3113)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:I.3113 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 I. Administration
Subpart 3. Managed Care for Physical and Behavioral Health

Chapter 31. General Provisions

§3113. Directed Payments

A. – A.4.a. ...

b. The department reserves the right to discontinue the interim directed payments to any hospital whose projected recoupment due to shifts in utilization is greater than 50 percent of their estimated interim directed payments or any hospital who discontinues operations during or prior to the directed payment contract period.

5. – 7.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:245 and Title XIX of the Social Security Act

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:264 (February 2023), amended LR 49:

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.

Stephen R. Russo, JD

Secretary

RULE

Department of Health
Bureau of Health Services Financing

Professional Services Program
Physician Directed Treatment-in-Place Ambulance Services
(LAC 50:IX.Chapter 13)

The Department of Health, Bureau of Health Services Financing has adopted LAC 50:IX.Chapter 13 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 IX. Professional Services Program
Subpart 1. General Provisions

Chapter 13. Physician Directed Treatment-In-Place Ambulance Services

§1301. General Provisions

A. Effective for dates of service on or after May 12, 2023, the Louisiana Medicaid Program provides coverage for initiation and facilitation of telehealth services by qualified Louisiana Medicaid enrolled ambulance providers.

B. Ambulance providers interested in offering physician directed treatment-in-place telehealth services must complete the following:

1. enroll as a CMS ET3 model participant;

2. enter into a partnership with a qualified, Louisiana Medicaid enrolled healthcare provider to furnish treatment-in-place telehealth services to Louisiana Medicaid beneficiaries; and

3. notify the Department of Health of its partnerships with each telehealth provider.

C. Reimbursement for initiation and facilitation of telehealth services shall be made according to the established physician directed treatment-in-place telehealth service fee schedule or billed charges, whichever is the lesser amount.

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 49:

§1303. Scope of Services

A. Initiation and facilitation of physician directed treatment-in-place telehealth services are performed by Louisiana Medicaid enrolled ambulance providers on site, with no transport, using audio and video telecommunications systems that permit real-time communication between a qualified, Medicaid enrolled, licensed medical practitioner and the beneficiary.

B. All services provided by ambulance providers during the initiation and facilitation of the physician directed

treatment-in-place intervention are covered by the associated BLS-E, emergency base rate, or the ALS1-E, Level 1 emergency base rate.

C. Ambulance providers are not eligible to submit a claim for reimbursement or receive payment for other services (except for supplies) at the scene.

D. If a beneficiary must be transported to an emergency department (ED) due to poor internet connection, which resulted in a failed physician directed treatment-in-place encounter, or the beneficiary's condition deteriorates, the ambulance provider may submit a claim for reimbursement and receive compensation for the transport to the ED, but not for initiation and facilitation of the telehealth service.

E. The entity seeking reimbursement for the corresponding physician directed treatment-in-place telehealth service must be an enrolled Louisiana Medicaid provider.

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 49:

§1305. Reimbursement

A. Reimbursement to the ambulance providers for initiation and facilitation of the physician directed treatment-in-place telehealth service requires a corresponding treatment-

in-place telehealth service. The corresponding treatment-in-place telehealth service is demonstrated via a Louisiana Medicaid paid treatment-in-place telehealth service claim.

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 49:

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.

Stephen R. Russo, JD

Secretary