

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Professional Services Program Reimbursement Methodology Supplemental Payments (LAC 50:IX.15151 and 15153)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:IX.15151 and §15153 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for professional services to provide a supplemental payment to physicians and other professional practitioners employed by, or under contract with, non-state owned or operated governmental entities (*Louisiana Register*, Volume 40, Number 3).

The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the Professional Services Program to revise the reimbursement methodology for supplemental payments to physicians and other professional service practitioners in order to clarify the qualifying criteria for these payments and to reformat the

provisions to ensure they are promulgated in a clear and concise manner in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 43, Number 2). This proposed Rule is being promulgated to continue the provisions of the February 20, 2017 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter F. Supplemental Payments

§15151. ~~Qualifying Criteria~~—State Owned or Operated

Professional Services Practices

A. Qualifying Criteria. Effective for dates of service on or after February 20, 2017, ~~in in~~ order to qualify to receive supplemental payments, physicians and other eligible professional service practitioners must be:

1. ...
2. enrolled as a Louisiana Medicaid provider; and
3. employed by, or under contract to provide services

in affiliation with, a state-owned or operated entity, such as a state-operated hospital or other state entity, including a state academic health system, which:

a. has been designated by the bureau as an essential provider. Essential providers include:

- i. LSU School of Medicine - New Orleans;

ii. LSU School of Medicine - Shreveport;
iii. LSU School of Dentistry; and
iv. LSU - state operated hospitals (Lallie
Kemp Regional Medical Center and Villa Feliciana Geriatric
Hospital); and

b. has furnished satisfactory data to LDH regarding the commercial insurance payments made to its employed physicians and other professional service practitioners.

B. ~~The supplemental payment to each qualifying physician or other eligible professional services practitioner in the practice plan will equal the difference between the Medicaid payments otherwise made to these qualifying providers for professional services and the average amount that would have been paid at the equivalent community rate. The community rate is defined as the average amount that would have been paid by commercial insurers for the same services~~Qualifying Provider Types. For purposes of qualifying for supplemental payments under this Section, services provided by the following professional practitioners will be included:

1. physicians;
2. physician assistants;
3. certified registered nurse practitioners;
4. certified nurse anesthetists;
5. nurse midwives;

6. psychiatrists;
7. psychologists;
8. speech-language pathologists;
9. physical therapists;
10. occupational therapists;
11. podiatrists;
12. optometrists;
13. social workers;
14. dentists;
15. audiologists;
16. chemical dependency counselors;
17. mental health professionals;
18. opticians;
19. nutritionists;
20. paramedics; and
21. doctors of chiropractic.

C. ~~The supplemental payments shall be calculated by applying a conversion factor to actual charges for claims paid during a quarter for Medicaid services provided by the state-owned or operated practice plan providers. The commercial payments and respective charges shall be obtained for the state fiscal year preceding the reimbursement year. If this data is not provided satisfactorily to DHH, the default conversion factor shall equal~~

~~"1". This conversion factor shall be established annually for qualifying physicians/practitioners by:~~ Payment Methodology

1. ~~determining the amount that private commercial insurance companies paid for commercial claims submitted by the state-owned or operated practice plan or entity; and~~ The supplemental payment to each qualifying physician or other eligible professional services practitioner in the practice plan will equal the difference between the Medicaid payments otherwise made to these qualifying providers for professional services and the average amount that would have been paid at the equivalent community rate. The *community rate* is defined as the average amount that would have been paid by commercial insurers for the same services.

2. ~~dividing that amount by the respective charges for these payers.~~ The supplemental payments shall be calculated by applying a conversion factor to actual charges for claims paid during a quarter for Medicaid services provided by the state-owned or operated practice plan providers. The commercial payments and respective charges shall be obtained for the state fiscal year preceding the reimbursement year. If this data is not provided satisfactorily to LDH, the default conversion factor shall equal "1". This conversion factor shall be established annually for qualifying physicians/practitioners by:

a. determining the amount that private commercial insurance companies paid for commercial claims submitted by the state-owned or operated practice plan or entity; and

b. dividing that amount by the respective charges for these payers.

3. The actual charges for paid Medicaid services shall be multiplied by the conversion factor to determine the maximum allowable Medicaid reimbursement. For eligible non-physician practitioners, the maximum allowable Medicaid reimbursement shall be limited to 80 percent of this amount.

4. The actual base Medicaid payments to the qualifying physicians/practitioners employed by a state-owned or operated entity shall then be subtracted from the maximum Medicaid reimbursable amount to determine the supplemental payment amount.

~~D. The actual charges for paid Medicaid services shall be multiplied by the conversion factor to determine the maximum allowable Medicaid reimbursement. For eligible non-physician practitioners, the maximum allowable Medicaid reimbursement shall be limited to 80 percent of this amount~~Supplemental payments for services provided by the qualifying state-owned or operated physician practice plan will be implemented through a quarterly supplemental payment to providers, based on specific Medicaid paid claim data.

~~E. The actual base Medicaid payments to the qualifying physicians/practitioners employed by a state-owned or operated entity shall then be subtracted from the maximum Medicaid reimbursable amount to determine the supplemental payment amount.~~

~~F. The supplemental payment for services provided by the qualifying state-owned or operated physician practice plan will be implemented through a quarterly supplemental payment to providers, based on specific Medicaid paid claim data.~~ E. - F. 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 40:544 (March 2014), promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§15153. ~~Qualifying Criteria~~ — Non-State Owned or Operated Professional Services Practices

A. Qualifying Criteria. Effective for dates of service on or after ~~July 1, 2010~~ February 20, 2017, ~~physicians and other professional service practitioners who are employed by, or under contract with, a non-state owned or operated governmental entity, such as a non-state owned or operated public hospital, may qualify for supplemental payments for services rendered to Medicaid recipients.~~ ~~To~~ in order to qualify ~~for the~~ to receive supplemental

paymentss, ~~the~~ physicianss ~~or~~ and other eligible professional service practitionerss must be:

1. licensed by the state of Louisiana; ~~and~~
2. enrolled as a Louisiana Medicaid provider~~;~~ and
3. employed by, or under contract to provide services at a non-state owned or operated governmental entity and identified by the non-state owned or operated governmental entity as a physician that is employed by, or under contract to provide services at said entity.

B. ~~The supplemental payment will be determined in a manner to bring payments for these services up to the community rate level~~Qualifying Provider Types. For purposes of qualifying for supplemental payments under this Section, services provided by the following professional practitioners will be included:

1. ~~For purposes of these provisions, the community rate shall be defined as the rates paid by commercial payers for the same service.~~physicians;
2. physician assistants;
3. certified registered nurse practitioners;
4. certified nurse anesthetists;
5. nurse midwives;
6. psychiatrists;
7. psychologists;
8. speech-language pathologists;

9. physical therapists;

10 occupational therapists;

11. podiatrists;

12. optometrists;

13. social workers;

14. dentists;

15. audiologists;

16. chemical dependency counselors;

17. mental health professionals;

18. opticians;

19. nutritionists;

20. paramedics; and

21. doctors of chiropractic.

C. ~~The non-state governmental entity shall periodically furnish satisfactory data for calculating the community rate as requested by DHH~~The supplemental payment will be determined in a manner to bring payments for these services up to the community rate level.

1. For purposes of this Section, the community rate shall be defined as the rates paid by commercial payers for the same service.

D. ~~The supplemental payment amount shall be determined by establishing a Medicare to community rate conversion factor for the physician or physician practice plan. At the end of each~~

~~quarter, for each Medicaid claim paid during the quarter, a Medicare payment amount will be calculated and the Medicare to community rate conversion factor will be applied to the result. Medicaid payments made for the claims paid during the quarter will then be subtracted from this amount to establish the supplemental payment amount for that quarter.~~The non-state governmental entity shall periodically furnish satisfactory data for calculating the community rate as requested by LDH.

E. ~~The supplemental payments shall be made on a quarterly basis and the Medicare to community rate conversion factor shall be recalculated periodically as determined by the department.~~Payment Methodology

1. The supplemental payment amount shall be determined by establishing a Medicare to community rate conversion factor for the physician or physician practice plan.

2. At the end of each quarter, for each Medicaid claim paid during the quarter, a Medicare payment amount will be calculated and the Medicare to community rate conversion factor will be applied to the result.

3. Medicaid payments made for the claims paid during the quarter will then be subtracted from this amount to establish the supplemental payment amount for that quarter.

F. The supplemental payments shall be made on a quarterly basis and the Medicare to community rate conversion factor shall be recalculated periodically as determined by the department.

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 40:544 (March 2014), promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

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.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described

in R.S. 49:973.

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, May 25, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary