

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

**Reimbursement for Vaccine Administration During a Declared
Public Health Emergency**
(LAC 50:IX.8305,8505,15113 and XXIX.Chapter 9)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:IX.8305, §8505, §15113, and XXIX.Chapter 9 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, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing reimbursement in the Professional Services and Pharmacy programs in order to adopt provisions governing vaccine administration during a declared public health emergency (PHE) (*Louisiana Register*, Volume 47, Number 1). The department determined that it was necessary to amend the December 23, 2020 Emergency Rule in order to add language specifying the requirement for Medicaid reimbursement to pharmacies for administration of vaccines related the PHE (*Louisiana Register*, Volume 47, Number 4). This proposed Rule is being promulgated

to continue the provisions of the December 23, 2020 and April 20, 2021 Emergency Rules.

Title 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part IX. Professional Services Program
Subpart 7. Immunizations

Chapter 83. Children's Immunizations

§8305. Reimbursement Methodology

A. - C.1. ...

D. Administration of vaccines related to a declared public health emergency shall be reimbursed at up to 100 percent of the Louisiana Region 99 Medicare rate for the duration deemed necessary by the Medicaid Program to ensure access. If providers are required to purchase vaccines, the vaccines will be reimbursed.

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 35:71 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:96 (January 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1289 (July 2015), amended by

the Department of Health, Bureau of Health Services Financing LR 47:49 (January 2021), LR 47:

Chapter 85. Adult Immunizations

§8505. Reimbursement Methodology

A. - C. ...

D. Administration of vaccines related to a declared public health emergency shall be reimbursed at up to 100 percent of the Louisiana Region 99 Medicare rate for the duration deemed necessary by the Medicaid Program to ensure access. If providers are required to purchase vaccines, the vaccines will be reimbursed.

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 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 41:1290 (July 2015), amended by the Department of Health, Bureau of Health Services Financing LR 47:50 (January 2021), LR 47:

Chapter 151. Reimbursement Methodology

Subchapter B. Physician Services

§15113. Reimbursement Methodology

A. - N. ...

O. Administration of treatments related to a declared public health emergency shall be reimbursed at up to 100 percent of the Louisiana Region 99 Medicare rate for the duration deemed necessary by the Medicaid Program to ensure access.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1252 (June 2010), amended LR 36:2282 (October 2010), LR 37:904 (March 2011), LR 39:3300, 3301 (December 2013), LR 41:541 (March 2015), LR 41:1119 (June 2015), LR 41:1291 (July 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 44:62 (January 2018), LR 47:

Part XXIX. Pharmacy

Chapter 9. Methods of Payment

Subchapter H. Vaccines

§991. Vaccine Administration Fees

A. ...

B. Administration of vaccines related to a declared public health emergency shall be reimbursed at up to 100 percent of the Louisiana Region 99 Medicare rate for the duration deemed necessary by the Medicaid Program to ensure access. If providers are required to purchase vaccines, then the vaccines will be reimbursed.

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 36:1783 (August 2010), amended LR 40:82 (January 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1555 (August 2017), LR 46:345 (March 2020), LR 47:

§993. Vaccine Reimbursement

A. Vaccines for beneficiaries aged 19 and over shall be reimbursed at wholesale acquisition cost (WAC) or billed charges, whichever is the lesser amount.

B. Vaccines related to a declared public health emergency shall not be reimbursed if furnished at no cost to providers. When providers are responsible for purchasing the vaccine, the Medicaid Program shall reimburse.

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 40:82 (January 2014), amended LR 46:345 (March 2020), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

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.

Family Impact Statement

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.

Poverty Impact Statement

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.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

Provider Impact Statement

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.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on May 30, 2021.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on May 10, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on May 27, 2021 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing

will be held, interested persons should first call Allen Enger at (225) 342-1342 after May 10, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips

Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person
Preparing
Statement: Veronica Dent Dept.: Health

Phone: 342-3238 Office: Bureau of Health Services Financing

Return
Address: PO Box 91030 Rule
Title: Reimbursement for Vaccine
Baton Rouge, LA 70802 Administration During a Declared
Public Health Emergency

Date Rule
Takes Effect: December 23, 2020

SUMMARY
(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this proposed rule will not have a net programmatic fiscal impact to the state for FY 20-21, FY 21-22, and FY 22-23, as it is anticipated that costs associated with vaccine administration will be reimbursed at 100 percent Federal Medical Assistance Percentage (FMAP) rate. Total reimbursement for administration costs is indeterminable. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 20-21 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

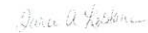
It is anticipated that the implementation of this proposed rule will have an indeterminable effect on revenue collections for FY 20-21, FY 21-22, and FY 22-23. Programmatic costs for the administration of vaccines will be reimbursed at 100 percent FMAP rate. It is anticipated that \$270 will be collected in FY 20-21 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

This proposed rule continues the provisions of the December 23, 2020 and April 20, 2021 Emergency Rules which amend the provisions governing reimbursement in the Professional Services and Pharmacy programs in order to adopt provisions governing vaccine administration during a declared public health emergency (PHE). This rule will be beneficial to recipients by increasing access to vaccines during a PHE. It is anticipated that implementation of this proposed rule will result in an indeterminable increase in payments to the Professional Services and Pharmacy providers in FY 20-21, FY 21-22 and FY 22-23 and will be beneficial by establishing a reimbursement methodology for vaccine administration during a declared PHE.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.



Signature of Agency Head or Designee

Tara A. LeBlanc, Interim Medicaid Executive Director
Typed Name & Title of Agency Head or Designee

4-6-2021
Date of Signature



Legislative Fiscal Officer or Designee

4-6-21
Date of Signature

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

This proposed rule continues the provisions of the December 23, 2020 and April 20, 2021 Emergency Rules which amend the provisions governing reimbursement in the Professional Services and Pharmacy programs in order to adopt provisions governing vaccine administration during a declared public health emergency (PHE).

- B. Summarize the circumstances, which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing reimbursement in the Professional Services and Pharmacy programs in order to adopt provisions governing vaccine administration during a declared public health emergency (PHE) (Louisiana Register, Volume 47, Number 1). The department determined that it was necessary to amend the December 23, 2020 Emergency Rule in order to add language specifying the requirement for Medicaid reimbursement to pharmacies for administration of vaccines related the PHE (Louisiana Register, Volume 47, Number 4). This proposed Rule is being promulgated to continue the provisions of the December 23, 2020 and April 20, 2021 Emergency Rules.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

Implementation of this proposed rule will not have a net programmatic fiscal impact to the state for FY 20-21, FY 21-22, and FY 22-23, as it is anticipated that costs associated with vaccine administration will be reimbursed at 100 percent Federal Medical Assistance Percentage (FMAP) rate. Total reimbursement for administration costs is indeterminable. In FY 20-21, \$540 is included for the state's administrative expense for promulgation of this proposed rule and the final rule.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) _____ Yes. If yes, attach documentation.

(b) _____ NO. If no, provide justification as to why this rule change should be published at this time

**FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET**

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 21	FY 22	FY 23
Personal Services			
Operating Expenses	See Below	See Below	See Below
Professional Services			
Other Charges	See Below	See Below	See Below
Equipment			
Major Repairs & Constr.			
TOTAL	See Below	See Below	See Below

POSITIONS (#)

2. Provide a narrative explanation of the costs or savings shown in "A. 1.," including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

Costs associated with vaccine administration will be reimbursed at 100 percent FMAP rate. In FY 20-21, \$540 will be spent for the state's administrative expense for promulgation of this proposed rule and the final rule.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 21	FY 22	FY 23
State General Fund	See Below	See Below	See Below
Agency Self-Generated			
Dedicated			
Federal Funds	See Below	See Below	See Below
Other (Specify)			
TOTAL	See Below	See Below	See Below

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

Yes, sufficient funds are available to implement this rule. Costs associated with vaccine administration will be reimbursed at 100 percent FMAP rate.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

This proposed rule has no known impact on local governmental units.

2. Indicate the sources of funding of the local governmental unit, which will be affected by these costs or savings.

There is no known impact on the sources of local governmental unit funding.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 21	FY 22	FY 23
State General Fund			
Agency Self-Generated			
Dedicated Funds*			
Federal Funds	See Below	See Below	See Below
Local Funds			
TOTAL	See Below	See Below	See Below

*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

Costs associated with vaccine administration will be reimbursed at 100 percent FMAP rate. In FY 20-21, \$270 will be collected for the federal share of the administrative expense for promulgation of this proposed rule and the final rule.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS

- A. What persons, small businesses, or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

This proposed rule continues the provisions of the December 23, 2020 and April 20, 2021 Emergency Rules which amend the provisions governing reimbursement in the Professional Services and Pharmacy programs in order to adopt provisions governing vaccine administration during a declared public health emergency (PHE). This rule will be beneficial to recipients by increasing access to vaccines during a PHE.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

It is anticipated that implementation of this proposed rule will result in an indeterminable increase in payments to the Professional Services and Pharmacy providers in FY 20-21, FY 21-22 and FY 22-23 and will be beneficial by establishing a reimbursement methodology for vaccine administration during a declared PHE.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

This rule has no known effect on competition and employment.