

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Emergency Telemedicine/Telehealth (LAC 50:I.Chapter 5)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:I.Chapter 5 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 adopted provisions allowing coverage of telemedicine/telehealth services provided through an interactive audio system, without the requirement of video, in the event of a declared emergency (*Louisiana Register*, Volume 46, Number 4). The department subsequently promulgated an Emergency Rule in order to clarify the provisions of the March 16, 2020 Emergency Rule (*Louisiana Register*, Volume 48, Number 4). This proposed Rule is being promulgated to continue the provisions of the March 16, 2020 and April 20, 2022 Emergency Rules and to update the provisions governing telemedicine/telehealth in the *Louisiana Administrative Code*.

Title 50 PUBLIC HEALTH-MEDICAL ASSISTANCE Part I. Administration

Subpart 1. General Provisions

Chapter 5. Telemedicine/Telehealth

§501. Introduction

A. Telemedicine/telehealth is the use of an interactive audio and video telecommunications system to permit real time communication between a distant site health care practitioner and the beneficiary. There is no restriction on the originating site (i.e., where the beneficiary is located) and it can include, but is not limited to, a healthcare facility, school, or the beneficiary's home.

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 31:2032 (August 2005), amended by the Department of Health, Bureau of Health Services Financing, LR 46:796 (June 2020), LR 48:

§503. Claim Submissions

A. Medicaid covered services provided via ~~an interactive audio and video telecommunications system (telemedicine)~~ telemedicine/telehealth shall be identified on claim submissions by appending the ~~Health Insurance Portability and Accountability Act (HIPAA) of 1996~~appropriate place of service ~~(POS)~~ or

modifier to the appropriate procedure code, in line with current policy.

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 31:2032 (August 2005), amended by the Department of Health, Bureau of Health Services Financing, LR 45:436 (March 2019), LR 48:

§505. Emergency Provisions

A. In the event that the federal or state government declares an emergency or disaster, the Medicaid Program may temporarily cover services provided through the use of an interactive audio telecommunications system, without the requirement of video, if such action is deemed necessary to ensure sufficient services are available to meet beneficiaries' needs.

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 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.

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 a positive impact on family functioning, stability and autonomy as described in R.S. 49:972, as it will ensure continued access to certain services during a declared emergency.

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 a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973, as it will ensure continued access to certain services during a declared emergency.

Small Business Analysis

In compliance with the Small Business Protection Act, 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.

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 Patrick Gilles, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Mr. Gilles is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on May 31, 2022.

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, 2022. 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 26, 2022 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, 2022. 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