

## NOTICE OF INTENT

### Department of Health Bureau of Health Services Financing

#### Hospice Services Pediatric Concurrent Care (LAC 50:XV.3503 and 4315)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XV.3503 and adopt §4315 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 proposes to amend the provisions governing hospice services provided concurrently with life-prolonging treatments to individuals under age 21 in order to update existing terminology and reflect current practices, comply with federal requirements which allow for pediatric concurrent care, and promulgate these provisions clearly and accurately in the *Louisiana Administrative Code*.

#### **Title 50** **PUBLIC HEALTH - MEDICAL ASSISTANCE** **Part XV. Services for Special Populations** **Subpart 3. Hospice**

#### **Chapter 35. Recipient Eligibility**

#### **§3503. Waiver of Payment for Other Services**

A. ~~Individuals who are 21 and over may be eligible for additional personal care services as defined in the Medicaid~~

~~state plan. Services furnished under the personal care services benefit may be used to the extent that the hospice provider would routinely use the services of the hospice patient's family in implementing the patient's plan of care. The hospice provider~~Hospice providers must provide services to ~~the individual~~beneficiaries that are comparable to the Medicaid-covered services ~~they~~that could have been received ~~through Medicaid~~ prior to ~~their~~the election of hospice. ~~These~~This requirement refers to all Medicaid-covered services ~~include~~including, but ~~are~~ not limited to +, durable medical equipment, prescription drugs, and physician-administered drugs.

- ~~1. pharmaceutical and biological services;~~
- ~~2. durable medical equipment; and~~
- ~~3. any other services permitted by federal law;~~
- ~~4. the services listed in §3503.A.1-3 are for illustrative purposes only. The hospice provider is not exempt from providing care if an item or category is not listed~~1. - 4.

Repealed.

B. ~~Individuals under~~Beneficiaries who are age 21 and over ~~who are approved for hospice~~ may be eligible for additional personal care services as defined in the Medicaid State Plan. Services furnished under the personal care services benefit may be used~~continue~~ to the extent that~~receive curative treatments for their terminal illness; however,~~ the hospice provider would otherwise need the services of the hospice beneficiary's family

in implementing the plan of care~~is responsible to coordinate all curative treatments related to the terminal illness.~~

~~1. Curative Treatments medical treatment and therapies provided to a patient with the intent to improve symptoms and cure the patient's medical problem. Antibiotics, chemotherapy, a cast for a broken limb are examples of curative care.~~

~~2. Curative care has as its focus the curing of an underlying disease and the provision of medical treatments to prolong or sustain life.~~

~~3. The hospice provider is responsible to provide durable medical equipment or contract for the provision of durable medical equipment. Personal care services, extended home health, and pediatric day health care must be coordinated with hospice services pursuant to §3705.C1. - 3. Repealed.~~

C. ~~Individuals who elect~~ Beneficiaries under age 21 who are approved for hospice services may continue to receive life-prolonging treatments. Life-prolonging treatments are defined as Medicaid-covered ~~also receive early and periodic screening, diagnosis and treatment (EPSDT) personal care services~~ provided to a beneficiary with ~~(PCS) concurrently. The hospice provider and the~~ purpose of treating, modifying, or curing a medical condition to allow the beneficiary to live as long as possible, even if that medical condition is also the hospice qualifying diagnosis. The hospice ~~PCS-provider~~ and other providers must

coordinate life-prolonging treatments and these should be incorporated services and develop the patient's into the plan of care ~~as set forth in §3705.~~

D. ~~The hospice provider is responsible for making a daily visit to all clients under~~ Beneficiaries under the age of 21 who are approved and for hospice may also receive early and periodic screening, diagnostic and treatment personal ~~the coordination of~~ care, extended home health, and pediatric day health care services concurrently. The hospice provider and the other service providers must coordinate ~~to assure there is no duplication of~~ services and develop the patient's plan of care as set forth in §3705. ~~The daily visit is not required if the person is not in the home due to hospitalization or inpatient respite or inpatient hospice stays.~~

E. For beneficiaries under the age of 21, the hospice provider is responsible for making a daily visit, unless specifically declined by the beneficiary or family, to coordinate care and ensure that there is no duplication of services. The daily visit is not required if the beneficiary is not in the home due to hospitalization or inpatient respite or inpatient hospice stays.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health

Services Financing, LR 28:1467 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:129 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

### Chapter 43. Reimbursement

#### §4315. Life-Prolonging Treatments for Beneficiaries under the

##### Age of 21

A. Reimbursement for life-prolonging treatments is separate from hospice payments and is made to the providers furnishing the services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Health, LR 46:

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 stability and autonomy as described in R.S. 49:972, but may improve family

functioning by providing support for health supervision and relieving undue stress over life-prolonging care for children certified for hospice care.

#### **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 by ensuring that recommended and approved life-prolonging care will be provided separately from hospice services.

#### **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, 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 Ruth Johnson, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Johnson is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on September 29, 2020.

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 September 9, 2020. 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 September 24, 2020 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 September 9, 2020. 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