

**NOTICE OF INTENT**

**Department of Health  
Bureau of Health Services Financing**

**Medicaid Eligibility  
Twelve-Months Postpartum Coverage  
(LAC 50:III.Chapter 23 and XV.16303)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:III.Chapter 23 and XV.16303 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.

House Resolution 193 (HR 193) of the 2021 Regular Session of the Louisiana Legislature requested that the Department of Health, Bureau of Health Services Financing allow for postpartum Medicaid coverage for 12 months after birth for eligible pregnant individuals. In compliance with HR 193, the Department now proposes to amend the provisions governing Medicaid eligibility to extend postpartum eligibility from 60 days to 12 months. In addition, this proposed Rule amends the provisions governing modified adjusted gross income groups in order to align the administrative Rule with the current provisions of the Medicaid State Plan approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

**Title 50  
PUBLIC HEALTH—MEDICAL ASSISTANCE  
Part III. Eligibility**

**Subpart 3. Eligibility Groups and Factors**

**Chapter 23. Eligibility Groups and Medicaid Programs**

**§2315. LaMOMS Program**

A. Pursuant to the provisions of the Omnibus Budget Reconciliation Act of 1986, the Department of Health, Bureau of Health Services Financing shall provide health care coverage through the LaMOMS Program to Medicaid eligible pregnant women with low income under the Medicaid state plan.

B. Eligibility Requirements. Eligibility for LaMOMS coverage may begin at any time during a pregnancy, and as early as three months prior to the month of application. Eligibility cannot begin before the first month of pregnancy. The pregnant woman must be pregnant for each month of eligibility, except for the 12-month postpartum period.

C. ...

1. Changes in income shall be disregarded during the period of pregnancy and for the 12-month postpartum period.

D. The LaMOMS program shall provide Medicaid coverage for:

1. - 3. ...

4. postpartum care during the 12-month postpartum period.

E. Certification Period

1. Eligibility for the pregnant women group may begin:
  - a. at any time during a pregnancy; and
  - b. as early as three months prior to the month of application.
2. Eligibility cannot begin before the first month of pregnancy. The pregnant women group certification may extend through the calendar month in which the 12-month postpartum period ends.
3. An applicant/enrollee whose pregnancy terminated in the month of application or in one of the three months prior without a surviving child shall be considered a pregnant woman for the purpose of determining eligibility in the pregnant women group.
4. Certification shall be from the earliest possible month of eligibility (up to three months prior to application) through the month in which the 12-month postpartum period ends.
5. Retroactive eligibility shall be explored regardless of current eligibility status.
  - a. If the applicant/enrollee is eligible for any of the three prior months, she remains eligible throughout the pregnancy and 12-month postpartum period. When determining retroactive eligibility, actual income received in the month of determination shall be used.

b. If application is made after the month her pregnancy ends, the period of eligibility will be retroactive but shall not start more than three months prior to the month of application. The start date of retroactive eligibility is determined by counting back three months prior to the date of application. The start date will be the first day of that month.

6. Coverage during the 12-month postpartum period is only available to an individual who is eligible for medical assistance under the state plan while pregnant, including during a period of retroactive eligibility.

7. Eligibility may not extend past the month in which the 12-month postpartum period ends.

a. The 12-month postpartum period begins on the last day of pregnancy.

b. The 12-month postpartum period ends the last day of the month in which the 12-month postpartum period has expired.

8. The applicant/enrollee must be income eligible during the initial month of eligibility only. Changes in income after the initial month will not affect eligibility.

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 39:3299 (December 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

**§2327. Modified Adjusted Gross Income (MAGI) Groups**

A. C.3. ...

D. Pregnant Women Group

1. - 1.b. ...

2. Eligibility cannot begin before the first month of pregnancy. The pregnant women group certification may extend through the calendar month in which the 12-month postpartum period ends.

3. ...

4. Certification shall be from the earliest possible month of eligibility (up to three months prior to application) through the month in which the 12-month postpartum period ends.

5. ...

a. If the applicant/enrollee is eligible for any of the three prior months, she remains eligible throughout the pregnancy and 12-month postpartum period. When determining retroactive eligibility actual income received in the month of determination shall be used.

b. If application is made after the month her pregnancy ends, the period of eligibility will be retroactive

but shall not start more than three months prior to the month of application. The start date of retroactive eligibility is determined by counting back three months prior to the date of application. The start date will be the first day of that month.

6. Coverage during the 12-month postpartum period is only available to an individual who is eligible for medical assistance under the state plan while pregnant, including during a period of retroactive eligibility.

7. Eligibility may not extend past the month in which the 12-month postpartum period ends.

a. The 12-month postpartum period begins on the last day of pregnancy.

b. The 12-month postpartum period ends the last day of the month in which the 12-month postpartum period has expired.

8. The applicant/enrollee must be income eligible during the initial month of eligibility only. Changes in income after the initial month will not affect eligibility.

E. - E.2.e. ...

3. Children Under Age 19-LaCHIP Affordable Plan. A child covered under the Louisiana State Children's Health Insurance Program (LaCHIP) Affordable Plan shall:

a. - e. ...

f. be a child whose custodial parent has not voluntarily dropped the child(ren) from employer sponsored insurance within the last three months without good cause. Good cause exceptions to the three month period for dropping employer sponsored insurance are:

i. the premium paid by the family for coverage of the child under the group health plan exceeded 5 percent of household income;

ii. the child's parent is determined eligible for advance payment of the premium tax credit for enrollment in a qualified health plan (QHP) through the marketplace because the employer-sponsored insurance (ESI) in which the family was enrolled is determined unaffordable in accordance with 26 CFR 1.36B-2(c)(3)(v);

iii. the cost of family coverage that includes the child exceeded 9.5 percent of the household income;

iv. the employer stopped offering coverage of dependents (or any coverage) under an employer-sponsored health insurance plan;

v. a change in employment, including involuntary separation, resulted in the child's loss of employer-sponsored insurance (other than through full payment of the premium by the parent under the Consolidated Omnibus Reconciliation Act of 1985 (COBRA));

vi. the child has special health care needs;

vii. the child lost coverage due to the death or divorce of a parent;

viii. involuntary termination of health benefits due to a long-term disability or other medical condition;

ix. the child has exhausted coverage under the COBRA continuation provision (i.e., COBRA expired); or

x. lifetime maximum has been reached.

E.4. - G. ...

1. Former foster care children may also be applicants/enrollees who:

a. have lost eligibility due to moving out of state, but re-established Louisiana residency prior to reaching age 26.

b. Repealed.

2. 2.d. ...

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 41:945 (May 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

**§2331. Twelve-Months Postpartum Medicaid Coverage**

A. Pursuant to the provisions of the section 9812 of the American Rescue Plan Act of 2021, the Department of Health, Bureau of Health Services Financing shall provide, during a five year period beginning April 1, 2022, that an individual who, while pregnant, is eligible for and has received medical assistance under the state plan or waiver of such plan including during a period of retroactive eligibility, shall remain eligible for a 12-month postpartum period. The 12-month postpartum period begins on the last day of pregnancy and ends on the last day of the month in which the 12-month postpartum period has expired.

B. The medical assistance provided for the pregnant or postpartum individual shall:

1. include all items and services covered under the state plan (or waiver) that are not less in amount, duration, or scope to the medical assistance available for an individual described in section 1902(a)(10)(A)(i) of the Social Security Act; and

2. be provided for the individual while pregnant and during the 12-month period that begins on the last day of the individual's pregnancy and ends on the last day of the month in which such 12-month period ends.

C. Coverage Under CHIP. A targeted low-income child who while pregnant, is eligible for and has received title XXI child health assistance, shall remain eligible for a 12-month postpartum period. The 12-month postpartum period begins on the last day of pregnancy and ends on the last day of the month in which the 12-month postpartum period has expired.

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:

**Part XV. Services for Special Populations**  
**Subpart 13. Pregnant Women Extended Services**

**Chapter 163. Substance Use Screening and Intervention Services**

**§16303. Scope of Services**

A. - D. ...

1. Pregnant women may receive four counseling sessions per quit attempt, up to two quit attempts per calendar year. Limits may be exceeded, based on medical necessity. The period of coverage for these services shall include the prenatal period through 12-month postpartum period. Services shall be provided:

a. - b.2. ...

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 40:794 (April 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 46:184 (February 2020), LR 46:954 (July 2020), 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 extends Medicaid coverage for recipients from 60 days postpartum to 12 months.

**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 extends Medicaid coverage for recipients from 60 days postpartum to 12 months.

#### **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 may have a positive impact on small businesses, as described in R.S. 49:978.1 et seq., since it permits Medicaid reimbursement for the provision of services to qualified mothers.

#### **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, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since this proposed Rule permits Medicaid reimbursement for the provision of services to qualified recipients.

#### **Public Comments**

Interested persons may submit written comments to Patrick Gillies, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Mr. Gillies is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on January 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 January 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 January 27, 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 January 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

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: Medicaid Eligibility  
Baton Rouge, LA Twelve-Months Postpartum Coverage  
Date Rule Takes Effect: March 20, 2022

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)

It is anticipated that implementation of this proposed rule will result in increased state general fund costs of approximately \$317,398 for FY 21-22, \$2,757,349 for FY 22-23 and \$2,818,831 for FY 23-24. It is anticipated that \$1,512 (\$756 SGF and \$756 FED) will be expended in FY 21-22 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 increase federal revenue collections by approximately \$1,146,187 for FY 21-22, \$8,870,551 for FY 22-23, and \$9,113,550 for FY 23-24. It is anticipated that \$756 will be collected in FY 21-22 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, in compliance with House Resolution 193 of the 2021 Regular Session of the Louisiana Legislature, amends the provisions governing Medicaid eligibility to extend postpartum eligibility from 60 days to 12 months and amends the provisions governing Modified Adjusted Gross Income Groups in order to align the administrative rule with the current provisions of the Medicaid State Plan approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services. This proposed rule will be beneficial to qualified recipients by extending their access to Medicaid services. Providers will benefit from implementation of this proposed rule since they will receive reimbursement for the provision of services that were previously not covered for this population. It is anticipated that implementation of this proposed rule will increase expenditures in the Medicaid program by approximately \$1,462,073 for FY 21-22, \$11,627,900 for FY 22-23, and \$11,932,381, for FY 23-24.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.



Signature of Agency Head or Designee

Patrick Gillies, Medicaid Executive Director  
Typed Name & Title of Agency Head or Designee

12/7/2021  
Date of Signature



Legislative Fiscal Officer or Designee

12/8/21  
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, in compliance with House Resolution 193 of the 2021 Regular Session of the Louisiana Legislature, amends the provisions governing Medicaid eligibility to extend postpartum eligibility from 60 days to 12 months and amends the provisions governing Modified Adjusted Gross Income Groups in order to align the administrative rule with the current provisions of the Medicaid State Plan approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

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

House Resolution 193 (HR 193) of the 2021 Regular Session of the Louisiana Legislature requested that the Department of Health, Bureau of Health Services Financing allow for postpartum Medicaid coverage for 12 months after birth for eligible pregnant individuals. In compliance with HR 193, the Department now proposes to amend the provisions governing Medicaid eligibility to extend postpartum eligibility from 60 days to 12 months. In addition, this proposed Rule amends the provisions governing modified adjusted gross income groups in order to align the administrative Rule with the current provisions of the Medicaid State Plan approved by the U.S. Department of Health and Human Services Centers for Medicare and Medicaid Services.

- 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.

Yes. It is anticipated that implementation of this proposed rule will result in increased programmatic costs of approximately \$1,463,585 for FY 21-22, \$11,627,900 for FY 22-23, and \$11,932,381 for FY 23-24. In FY 21-22, \$1,512 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)  X  NO. If no, provide justification as to why this rule change should be published at this time

HR 193 of the 2021 Regular Session of the Louisiana Legislature requested the Department of Health to establish this program. Act 119 of the 2021 Regular Session of the Louisiana Legislature allocated funds to the Medical Vendor Program for payments to providers and the operation of the Medicaid Program, and thereby, authorizes the expenditure of these funds. This proposed rule will be beneficial to qualified recipients by extending their access to Medicaid services.

**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?

<b>COSTS</b>	<b>FY 22</b>	<b>FY 23</b>	<b>FY 24</b>
Personal Services			
Operating Expenses	\$1,512	\$0	\$0
Professional Services			
Other Charges	\$1,462,073	\$11,627,900	\$11,932,381
Equipment			
Major Repairs & Constr.			
<b>TOTAL</b>	<b>\$1,463,585</b>	<b>\$11,627,900</b>	<b>\$11,932,381</b>

**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.

The expenses reflected above are the estimated increases in expenditures in the Medicaid program. In FY 21-22, \$1,512 is included 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.

<b>SOURCE</b>	<b>FY 22</b>	<b>FY 23</b>	<b>FY 24</b>
State General Fund	\$317,398	\$2,757,349	\$2,818,831
Agency Self-Generated			
Dedicated			
Federal Funds	\$1,146,187	\$8,870,551	\$9,113,550
Other (Specify)			
<b>TOTAL</b>	<b>\$1,463,585</b>	<b>\$11,627,900</b>	<b>\$11,932,381</b>

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.

**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?

<u>REVENUE INCREASE/DECREASE</u>	<u>FY 22</u>	<u>FY 23</u>	<u>FY 24</u>
State General Fund			
Agency Self-Generated			
Dedicated Funds*			
Federal Funds	\$1,146,187	\$8,870,551	\$9,113,550
Local Funds			
<b>TOTAL</b>	<b>\$1,146,187</b>	<b>\$8,870,551</b>	<b>\$9,113,550</b>

\*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.

The amounts reflected above are the estimated increase in the federal share of programmatic expenditures for the Medicaid program. In FY 21-22, \$756 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, in compliance with House Resolution 193 of the 2021 Regular Session of the Louisiana Legislature, amends the provisions governing Medicaid eligibility to extend postpartum eligibility from 60 days to 12 months and amends the provisions governing Modified Adjusted Gross Income Groups in order to align the administrative Rule with the current provisions of the Medicaid State Plan approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services. This proposed rule will be beneficial to qualified recipients by extending their access to Medicaid services.

- 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.

Providers will benefit from implementation of this proposed rule since they will receive reimbursement for the provision of services that were previously not covered for this population. It is anticipated that implementation of this proposed rule will increase expenditures in the Medicaid program by approximately \$1,462,073 for FY 21-22, \$11,627,900 for FY 22-23, and \$11,932,381 for FY 23-24..

**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.