

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~~and Hospitals~~, 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 ~~60-day~~ 12-month postpartum period.

C. ...

1. Changes in income shall be disregarded during the period of pregnancy and for the ~~60-day~~ 12-month postpartum period.

D. The LaMOMS program shall provide Medicaid coverage for:

1. - 3. ...

4. postpartum care ~~up to 60 days after the pregnancy ends~~ during the 12-month postpartum period.

E. Certification Period. ~~The LaMOMS certification period begins with the first month of eligibility and continues without interruption through the calendar month in which the 60-day postpartum period ends.~~

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 ~~60-day~~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 ~~60-day~~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 ~~60-day~~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 ~~the postpartum period~~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. ~~Eligibility may not extend past the month in which the~~Coverage during the 12-month postpartum period ~~ends~~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. ~~The applicant/enrollee must be income eligible during the initial~~Eligibility may not extend past the month ~~of eligibility only. Changes in income after the initial~~which the 12-month ~~will not affect eligibility~~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. ~~lost insurance due to divorce or death of parent~~the premium paid by the family for coverage of the child under the group health plan exceeded 5 percent of household income;

ii. ~~lifetime maximum reached~~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. ~~COBRA coverage ends (up to 18 months)~~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~~ended due to lay-off or business closure plan;~~

v. ~~changed jobs and new employer does not offer dependent coverage~~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. ~~employer no longer provides dependent coverage~~the child has special health care needs;

vii. ~~monthly family premium exceeds 9.5 percent of household income~~the child lost coverage due to the death or divorce of a parent; or

viii. ~~monthly premium for coverage of the child exceeds 5 percent of household income.~~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~~;-or.~~

b. ~~currently reside in Louisiana, but were in foster care in another state's custody upon reaching age 18.~~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 ~~60-days~~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