NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Greater New Orleans Community Health Connection
Waiver Termination
(LAC 50:XXII.Chapters 61-69)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to repeal LAC 50:XXII.Chapters 61-69 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act on July 1, 2016 or upon the implementation of Medicaid expansion under the provisions of the Affordable Care Act (ACA). 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 and Hospitals, Bureau of Health Services Financing adopted provisions to establish a demonstration program under the authority of a Section 1115 Waiver, called the Greater New Orleans Community Health Connection (GNOCHC) Waiver to ensure continued access to primary and behavioral health care services that were restored and expanded in the greater New Orleans area post Hurricanes Katrina and Rita (*Louisiana Register*, Volume 38, Number 3).

The Patient Protection and Affordable Care Act (P.L. No. 111-148), hereafter referred to as the Affordable Care Act (ACA), and §1937 of Title XIX of the Social Security Act (SSA) provided states with the flexibility to expand Medicaid coverage to a new mandatory

adult group not currently eligible for Medicaid benefits by designing alternative Medicaid benefit packages under their Medicaid State Plan. There are many options available to states in selecting an Alternative Benefit Plan (ABP) and designing an enhanced benefits package to cover targeted populations to appropriately meet their needs.

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) has directed states who wish to expand Medicaid coverage under the provisions of ACA to submit State Plan amendments (SPAs) to secure approval to implement Medicaid expansion. In compliance with CMS' directive and federal regulations, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt provisions in the Medicaid Program to expand Medicaid coverage to the newly eligible adult group. The department will submit the corresponding SPAs to CMS upon meeting the technical requirements for public notice and undergoing the federally-approved tribal consultation process.

In light of the expansion of Medicaid coverage in the Medicaid Program, the department has determined that it is necessary to terminate coverage under the GNOCHC Waiver and transition these individuals to coverage under the ABP. Hence, the department hereby proposes to repeal the provisions governing the GNOCHC Waiver in order to terminate coverage under the §1115 waiver authority, effective July 1, 2016 or upon the implementation of Medicaid expansion under the provisions of the Affordable Care Act (ACA).

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXII. 1115 Demonstration Waivers
Subpart 7. Greater New Orleans Community Health Connection Waiver

Chapter 61. General Provisions

§6101. Purpose

~~A. Upon approval from the Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), the Department shall implement a Section 1115 demonstration waiver called the Greater New Orleans Community Health Connection (GNOCHC) Waiver to provide primary and behavioral health care services to eligible uninsured residents in the greater New Orleans area.~~

~~B. The intent of the GNOCHC Waiver is to preserve primary and behavioral health care access that was restored and expanded in the greater New Orleans area with Primary Care Access and Stabilization Grant (PCASG) funds awarded by CMS after Hurricanes Katrina and Rita. Implementation of this waiver program is expected to reduce reliance on costlier emergency room services to meet primary care needs~~Repealed.

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 38:820 (March 2012), repealed LR 42:

§6103. Program Design

~~A. The GNOCHC Waiver is designed to transition the PCASG medical home model to a financially sustainable model utilizing other funding resources over the long-term.~~

~~B. The waiver is a 39 month demonstration project which shall be implemented in two primary phases which span four fiscal years.~~

~~C. Phase one of the GNOCHC Waiver shall focus on preserving access to primary care services and developing a CMS approved plan for transitioning the funding of the demonstration project to long-term revenue sources. Phase two focuses on implementing the transition plan, assessment, and the demonstration project phase-down~~Repealed.

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 38:820 (March 2012), repealed LR 42:

Chapter 63. Eligibility

§6301. General Provisions

~~A. The targeted population for GNOCHC Waiver services shall be uninsured adults who live in the greater New Orleans area. For purposes of these provisions, the greater New Orleans area shall consist of the following parishes:~~

~~1. Jefferson;~~

~~2. Orleans;~~

~~3. Plaquemines; and~~

~~4. St. Bernard.~~

~~B. All applicants shall be pre-screened to determine possible eligibility for coverage in other Medicaid or Children's Health Insurance Programs (CHIP) prior to determining eligibility for GNOCHC Waiver services.~~

~~C. Retroactive coverage is not available in the GNOCHC Wavier program. The effective date of coverage for eligible recipients shall be the first day of the month in which the application for services was received.~~

~~D. At the department's discretion and upon CMS approval, the following measures may be taken to manage eligibility for these services to ensure that waiver expenditures do not exceed funding allocations. The department may:~~

~~1. employ a first come, first served reservation list to manage the number of applications received;~~

~~2. limit the number of applications provided to potential recipients; or~~

~~3. impose enrollment limits;~~

~~E. Waiver recipients shall undergo an eligibility redetermination at least once every 12 months. Each redetermination shall include an assessment of the individual's eligibility for coverage in other Medicaid or CHIP programs~~Repealed.

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 38:820 (March 2012), repealed LR 42:

§6303. Recipient Qualifications

~~A. CNOCHC Waiver services shall be provided to individuals who:~~

~~1. have been uninsured for at least 6 months;~~

~~2. are not pregnant;~~

~~3. are age 19 through 64 years old;~~

~~4. are not otherwise eligible for Medicaid, CHIP or Medicare coverage, with the exception of TAKE CHARGE Family Planning Waiver participants and recipients who receive coverage through the Tuberculosis Infected Program;~~

~~5. are a resident of any one of the parishes in the greater New Orleans area as defined in §6301.A;~~

~~6. have family income up to 100 percent of the federal poverty level; and~~

~~7. meet citizenship requirements under the Deficit Reduction Act of 2008 and the Children's Health Insurance Program Reauthorization Act of 2009.~~

~~B. A waiver recipient shall be disenrolled from the program if any one of the following occurs. The recipient:~~

~~1. has family income that exceeds the income limits at redetermination;~~

~~2. voluntarily withdraws from the program;~~

~~3. no longer resides in a parish within the greater New Orleans area;~~

~~4. becomes incarcerated or becomes an inpatient in an institution for mental disorders;~~

~~5. obtains health insurance coverage;~~

~~6. turns 65 years old; or~~

~~7. dies~~Repealed.

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 38:820 (March 2012), LR 39:3297 (December 2013), repealed LR 42:

Chapter 65. Services

§6501. Covered Services

~~A. The following services shall be available to GNOCHC Waiver recipients:~~

~~1. care coordination;~~

~~2. immunizations and influenza vaccines;~~

~~3. laboratory and radiology;~~

~~4. behavioral health care;~~

~~5. pharmacy;~~

~~6. primary health care;~~

~~7. preventive health care;~~

~~8. substance abuse; and~~

~~9. specialty care (covered with a referral from the primary care physician).~~

~~B. Cost-sharing may be applicable to the services rendered in this waiver program. All demonstration cost-sharing shall be in compliance with federal statutes, regulations and policies. A wavier recipient's share of the cost shall be restricted to a 5 percent aggregate limit per family~~Repealed.

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 38:821 (March 2012), repealed LR 42:

§6503. Service Delivery

~~A. All of the covered services under this waiver program shall be delivered by an existing PCASC funded clinic.~~

~~B. All services shall be delivered on an outpatient basis. Reimbursement shall not be made under this waiver program for services rendered to recipients who meet inpatient status~~Repealed.

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 38:821 (March 2012), repealed LR 42:

Chapter 67. Provider Participation

§6701. General Provisions

~~A. All clinics participating in the delivery of services covered under the GNOCHC Waiver shall adhere to all of the applicable federal and state regulations, policy, Rules, manuals and laws.~~

~~B. Each participating clinic shall meet the following requirements. The clinic shall:~~

~~1. be an existing PCASC funded clinic;~~

~~2. be operational and serving waiver recipients on October 1, 2010;~~

~~a. if a former PCASG clinic wishes to reestablish operations as a GNOCHC participating clinic after October 1, 2010, CMS approval shall be required;~~

~~3. be a public or private not-for-profit entity that meets the following conditions:~~

~~a. the entity must not be an individual practitioner in private solo or group practice;~~

~~b. the clinic shall be currently licensed, if applicable;~~

~~c. either the clinic or its licensed practitioners shall be currently enrolled in the Medicaid Program; and~~

~~d. all health care practitioners affiliated with the clinic that provide health care treatment, behavioral health counseling, or any other type of clinical health care services to~~

~~patients shall hold a current, unrestricted license to practice in the state of Louisiana within the scope of that licensure;~~

~~4. provide full disclosure of ownership and control, including but not limited to any relative contractual agreements, partnerships, etc.;~~

~~5. have a statutory, regulatory or formally established policy commitment (e.g. through corporate bylaws) to serve all people, including patients without insurance, at every income level regardless of their ability to pay for services, and be willing to accept and serve new publicly insured and uninsured individuals;~~

~~6. maintain one or more health care access points or service delivery sites for the provision of health care services which may include medical care, behavioral health care and substance abuse services, either directly on-site or through established contractual arrangements; and~~

~~7. be capable of implementing and evaluating the effectiveness of an organization-specific strategic plan to become a sustainable organizational entity by December 31, 2013 which is capable of permanently providing primary or behavioral health care services to residents in the greater New Orleans area.~~

~~a. For purposes of these provisions, a sustainable organizational entity shall be defined as an entity actively developing, implementing and evaluating the effectiveness of its organization to diversify its operating income and funding resources to include non-demonstration funding sources.~~

~~C. Participating providers/clinics shall be responsible for:~~

~~1. collection of all data on the services rendered to demonstration participants through encounter data or other methods so specified by the department; and~~

~~2. maintenance of such data at the provider level~~Repealed.

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 38:821 (March 2012), repealed LR 42:

§6703. Reporting Requirements

~~A. GNOCHC participating clinics shall be required to provide a sustainability plan to the department by March 1, 2011.~~

~~B. Semi-annual progress reports on the sustainability plan shall be submitted during the second and fourth quarter of each demonstration year. The first annual report is due in the fourth quarter of the first demonstration year.~~

~~C. Participating providers/clinics shall be required to provide encounter data in the format and frequency specified by the department.~~

~~D. Clinics that do not comply with these reporting requirements shall not be eligible to receive payments from this demonstration program and may receive financial penalties for noncompliance~~Repealed.

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 38:822 (March 2012), repealed LR 42:

Chapter 69. Reimbursement

§6901. General Provisions

~~A. Clinics shall ensure that reimbursement for services covered under the GNOCHC Wavier is requested only for those individuals who meet the program criteria.~~

~~B. Federal financial participation (FFP) for this waiver program is limited to the federal share of $30 million annually in demonstration expenditures in each of the first three years of the demonstration. In year four, FFP is limited to the federal share of $7.5 million. Thus, the total FFP for this demonstration waiver program over all four years is limited to the federal share of $97.5 million. Federal funding will not be available for expenditures in excess of these annual limits even when the expenditure limit was not reached in prior years.~~

~~1. These provisions do not preclude the department from including as allowable expenditures for a particular demonstration year any expenditures incurred after the end of a demonstration year for items or services furnished during that year.~~

~~C. The federal share of expenditures for payments to GNOCHC providers shall be calculated based upon the applicable federal~~

~~medical assistance percentage rate for the year in which the expenditures were incurred.~~

~~D. The department may make an urgent sustainability payment to any eligible GNOCHC clinic that meets the criteria of this Chapter 67 and requires financial support to maintain clinical operations while the department seeks CMS approval for the funding and reimbursement protocol for this waiver program~~Repealed.

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 38:822 (March 2012), repealed LR 42:

§6903. Reimbursement Methodology

~~A. Urgent Sustainability Payments~~

~~1. For each clinic requiring an urgent sustainability payment, the department shall determine the average payment based upon the clinic's three-year historical grant award received under the PCASC program.~~

~~2. The sustainability payment shall be no more than 25 percent of the average annual payment determined for that clinic during the PCASC period. Prior approval from CMS shall be required for sustainability payments in excess of 25 percent of the clinic's average PCASC payment. The department may disburse the payment in the first quarter of demonstration year one.~~

~~3. Upon CMS approval of the payment methodology, the department shall reconcile the amount of sustainability payments made to clinics during the period of October 1, 2010 through December 31, 2010 against the actual payments that would have been made to the clinics under the approved payment methodology.~~

~~a. Any overpayments made to a clinic shall be recouped from the clinic's payments due in the quarter following the reconciliation.~~

~~b. Any underpayments made to a clinic shall be made in the quarter following the reconciliation.~~

~~4. The total of all sustainability payments made during the first quarter in demonstration year one shall not exceed $7.5 million. Any sustainability payments made shall be applied to the $30 million total computable annual allotment for demonstration year one.~~

~~B. Reimbursement for services rendered during phase one and phase two of the demonstration shall be made according to the rate methodology established by the department and approved by CMS in the funding and reimbursement protocol for this waiver program.~~

~~C. Effective for dates of service on or after January 1, 2014, the department shall make the following payment reductions in the GNOCHC Waiver.~~

~~1. The bundled payment rate for primary care encounters shall be reduced from $235.51 to $205. Behavioral health encounters~~

~~will continue to be reimbursed at the current rates in effect on December 31, 2013.~~

~~2. Infrastructure investment payments shall be eliminated.~~

~~3. Year-end supplemental payments, which proportionately redistribute any remaining balance of the annual program budget amongst all providers, shall be eliminated~~Repealed.

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 38:822 (March 2012), LR 39:3297 (March 2013), repealed LR 42:

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.

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 or autonomy as described in R.S. 49:972 since GNOCHC waiver recipients will be transitioned to coverage under Medicaid expansion.

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 since GNOCHC waiver recipients will be transitioned to coverage under Medicaid expansion.

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.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, March 31, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

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Secretary