

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing
and
Office of Aging and Adult Services**

**Nursing Facilities
Admissions and Continued Stay Criteria
(LAC 50:II.Chapter 5)**

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:II.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 and the Office of Aging and Adult Services propose to amend the provisions governing nursing facilities in order to revise and clarify the documentation requirements for medical certification of initial admissions and continued stay processes to ensure that these provisions are promulgated in a clear and concise manner in the *Louisiana Administrative Code*.

Title 50

**PUBLIC HEALTH—MEDICAL ASSISTANCE
Part II. Nursing Facilities
Subpart 1. General Provisions**

Chapter 5. Admissions

§501. Preadmission Screening

A. Preadmission screening shall be performed for all individuals seeking admission to a Medicare or Medicaid-certified nursing facility, regardless of the source of payment for the nursing facility services or the individual's known diagnoses. The purpose of the preadmission screening and resident review (PASRR) process is to identify applicants or residents who have a diagnosis of serious mental illness or mental retardation (hereafter referred to as intellectual/developmental disability) and to determine whether these individuals require nursing facility services and/or specialized services for their mental condition.

1. - 1.c.iii. ...

2. An individual is considered to have intellectual/developmental disability if the individual meets the criteria as described in the *American Association on Intellectual and Developmental Disabilities' Manual on Intellectual Disability: Definition, Classification, and Systems of Supports*, 11th edition, or its successor.

a. *Intellectual/Developmental Disability (I/DD)*—a disability that originates before the age of 18 and is characterized by significant limitations in both intellectual functioning (reasoning, learning, problem solving) and adaptive

behavior, which covers a range of everyday social and practical skills.

b. ...

B. A Medicaid-certified nursing facility shall not admit a person with a diagnosis of a serious mental illness or intellectual/developmental disability without a preadmission screening.

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 and the Office of Aging and Adult Services, LR 36:1010 (May 2010), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:

§503. Medical Certification

A. Evaluative data for medical certification (level of care determination) must be submitted to the Office of Aging and Adult Services (OAAS) or its designee for all initial admissions to and requests for continued stays in Medicare or Medicaid-certified nursing facilities, regardless of payer source.

1. Initial Admissions

a. Required Documents. The following documents are required for initial admission to a nursing facility. These

documents must not be dated more than 30 days prior to the date of admission:

i. a level of care eligibility tool (LOCET) assessment;

ii. a preadmission screening and resident review (level I PASRR) form completed by a qualified health care professional as defined by OAAS. The level 1 PASRR form must be signed and dated on the date that it is completed. The level I PASRR form addresses the specific identifiers of MI or I/DD that indicate that a more in-depth evaluation is needed to determine the need for specialized services. The need for this in-depth assessment does not necessarily mean that the individual cannot be admitted to a nursing facility, only that the need for other services must be determined prior to admission;

(a). if the information on the level I PASRR indicates that the individual may have a diagnosis of MI and/or I/DD, and the individual meets the criteria for nursing facility level of care, the individual shall be referred to the Office of Behavioral Health or the Office for Citizens with Developmental Disabilities (the state's mental health and intellectual disability level II authorities) for a level II screening to determine if the individual requires the level of services provided by a nursing facility and whether specialized services are needed. Medical certification is not guaranteed for

an individual who has been referred for a level II screening. A Medicare or Medicaid-certified nursing facility shall not admit an individual identified for a level II screening until the screening has been completed and a decision is made by the level II authority;

(b). if there is no indication on the level I PASRR or in other records that the individual may have a diagnosis of MI and/or I/DD and he/she meets the criteria for nursing facility level of care, OAAS may approve the individual for admission to the nursing facility;

iii. for nursing facility admission under a specialized level of care, additional documentation that supports the need for specialized care as outlined in the policies and procedures issued by the department; and

iv. OAAS or its designee may require the submittal of additional documentation for an admission at the department's discretion.

b. Vendor Payment. Once approval has been obtained, the individual must be admitted to the facility within 30 days of the date of the approval notice. The nursing facility shall submit a completed BHSF Form 148, within the timelines established in the policies and procedures by the department, to the local Medicaid eligibility office and OAAS indicating the anticipated payment source for the nursing facility services.

Medicaid vendor payment shall not begin prior to the date that medical and financial eligibility is established, and shall only begin once the individual is actually admitted to the facility.

NOTE: Repealed.

2. Continued Stay Requests

a. Required documents. The following documents are required in order for OAAS or its designee to determine the need for continued services in a nursing facility.

i. a continued stay request form as issued by OAAS or its designee;

ii. documentation to support the request for continued stay as provided for in policies and procedures issued by the department. An MDS 3.0 conducted no more than 14 calendar days prior to the request shall be required. A LOCET will not be accepted as sufficient evidence of medical need for an individual who has been discharged for a period of less than 14 calendar days unless:

(a). there is additional supporting documentation deemed sufficient by the department demonstrating a change in status; or

(b). the individual is seeking admission to a facility different than the facility from which they were discharged; and

iii. additional documentation as required by the level II authorities.

b. Vendor payment. Medicaid payment shall be made in accordance with the Notice of Medical Certification (BHSF Form 142) issued by OAAS or the level II authority.

A.3. - D. 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 and the Office of Aging and Adult Services, LR 36:1011 (May 2010), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 43:1179 (June 2017), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:

§507. Exempted Hospital Discharges

A. - A.3. ...

B. If prior to admission, the individual does not meet the criteria for an exempted hospital discharge, then the individual will be referred to the appropriate level II authority for an assessment.

1. Repealed.

C. If after admission it becomes apparent that a longer stay is required, the nursing facility must refer the individual to the appropriate level II authority for assessment within 30 days of the admission date.

1. Approval for the admission will continue to the fortieth calendar day from the date of admission pending the level II determination.

D. Exempted hospital discharges are only applicable for persons with MI and/or IDD. This exempted discharge does not apply to any other program or for transfers between nursing facilities.

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 and the Office of Aging and Adult Services, LR 36:1012 (May 2010), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:

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 and autonomy as described in R.S. 49:972.

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.

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 29, 2018 at 9:30 a.m. in Room 173, 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.

Rebekah E. Gee MD, MPH

Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person
Preparing

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Rule Title: Nursing Facilities
Admissions and
Continued Stay Criteria

Date Rule Takes Effect: May 20, 2018

SUMMARY

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 summary statements, based on the attached worksheets, 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 have no programmatic fiscal impact to the state other than the cost of promulgation for FY 17-18. It is anticipated that \$1,080 (\$540 SGF and \$540 FED) will be expended in FY 17-18 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)

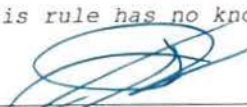
It is anticipated that the implementation of this proposed Rule will not affect revenue collections other than the federal share of the promulgation costs for FY 17-18. It is anticipated that \$540 will be collected in FY 17-18 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)


This proposed Rule amends the provisions governing nursing facilities in order to revise and clarify the documentation requirements for medical certification of initial admissions and continued stay processes to ensure that these provisions are promulgated in a clear and concise manner in the Louisiana Administrative Code. The proposed rule will benefit nursing facility providers by clearly identifying the specific documentation required for each process. It is anticipated that implementation of this proposed rule will not have economic costs to nursing facilities for FY 17-18, FY 18-19 and FY 19-20, since Medicaid payments for nursing facility services will remain at the current level.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.



Signature of Agency Head
or Designee




Legislative Fiscal Officer
or Designee

Jen Steele, Medicaid Director

Typed name and Title of
Agency Head or Designee

2/9/18

Date of Signature



LDH/BHSF Budget Head

2/9/18

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 deliberations 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 amends the provisions governing nursing facilities in order to revise and clarify the documentation requirements for medical certification of initial admissions and continued stay processes to ensure that these provisions are promulgated in a clear and concise manner in the Louisiana Administrative Code.

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

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend the provisions governing nursing facilities in order to revise and clarify the documentation requirements for medical certification of initial admissions and continued stay processes to ensure that these provisions are promulgated in a clear and concise manner in the Louisiana Administrative Code.

- 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.

No. It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 17-18. It is anticipated that \$1,080 will be expended in FY 17-18 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) If yes, attach documentation.
(b) If no, provide justification as to why this rule change should be published at this time.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

I. A. COST OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase or (decrease) in cost to implement the proposed action?

COST	FY 17-18	FY 18-19	FY 19-20
PERSONAL SERVICES			
OPERATING EXPENSES	\$1,080	\$0	\$0
PROFESSIONAL SERVICES			
OTHER CHARGES			
REPAIR & CONSTR.			
POSITIONS (#)			
TOTAL	\$1,080	\$0	\$0

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.

In FY 17-18, \$972 will be spent 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.

Source	FY 17-18	FY 18-19	FY 19-20
STATE GENERAL FUND	\$540	\$0	\$0
SELF-GENERATED			
FEDERAL FUND	\$540	\$0	\$0
OTHER (Specify)			
Total	\$1,080	\$0	\$0

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 THIS PROPOSED ACTION.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustment 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.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

2. Indicate the sources of funding of the local governmental unit that will be affected by these costs or savings.

There is no known impact on the sources of local governmental unit funding.

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

- A. What increase or (decrease) in revenues can be expected from the proposed action?

REVENUE INCREASE/DECREASE	FY 17-18	FY 18-19	FY 19-20
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
RESTRICTED FUNDS*			
FEDERAL FUNDS	\$540	\$0	\$0
LOCAL FUNDS			
Total	\$540	\$0	\$0

**Specify the particular fund being impacted*

- B. Provide a narrative explanation of each increase or decrease in revenue shown in "A". Describe all data, assumptions, and methods used in calculating these increases or decreases.

In FY 17-18, \$540 will be collected for the federal share of the administrative expense for promulgation of this proposed rule and the final rule.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effects on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.)

This proposed Rule amends the provisions governing nursing facilities in order to revise and clarify the documentation requirements for medical certification of initial admissions and continued stay processes to ensure that these provisions are promulgated in a clear and concise manner in the Louisiana Administrative Code.

- B. Also, provide an estimate of any revenue impact resulting from this rule or rule change to these groups.

The proposed rule will benefit nursing facility providers by clearly identifying the specific documentation required for each process. It is anticipated that implementation of this proposed rule will not have economic costs to nursing facilities for FY 17-18, FY 18-19 and FY 19-20 since Medicaid payments for nursing facility services will remain at the current level.

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.