

**NOTICE OF INTENT**

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

**Home Health Program  
American Rescue Plan Act Funding  
(LAC 50:XIII.Chapter 8)**

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:XIII.Chapter 8 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 U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) approved the Department of Health's administration and payment model for funds provided under section 9817 of the American Rescue Plan Act of 2021 (ARPA) to agencies that provide home health care services. In compliance with the CMS-approved model for administering ARPA funds, the Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which adopted provisions governing ARPA funding in the Home Health Program in order to establish recruitment and retention payments for nurses that provide extended home health services to beneficiaries under the age of 21 who are in a Medicaid waiver program (*Louisiana Register*, Volume 49, Number 1). This proposed Rule is being

promulgated to continue the provisions of the January 10, 2023  
Emergency Rule.

## **Title 50**

### **PUBLIC HEALTH-GENERAL Part XIII. Home Health Program Subpart 1. Home Health Services**

#### **Chapter 8. American Rescue Plan Act Funding**

#### **§801. Nursing Recruitment and Retention Payments**

##### **A. General Provisions**

1. Nurses that provide extended home health (EHH) services may be eligible to receive recruitment and retention bonuses through April 2024.

2. A nurse is defined as an individual who possesses and maintains a valid license as a licensed practical nurse (LPN) or registered nurse (RN).

3. All payments shall be administered by the home health agency (HHA) that employs the nurse. If a nurse is employed at multiple agencies, only one HHA may pay the recruitment and retention payment.

4. HHAs shall submit an invoice and supporting documentation for each nurse that meets the requirements outlined in this Chapter on a monthly basis and shall comply with all other requirements established by LDH to receive a payment.

5. HHAs shall disburse the entire payment to the nurse and are prohibited from reducing the payment in any way.

6. HHAs that provide the required documentation, comply with all applicable requirements, and have at least one nurse a month receiving a bonus payment will be eligible to invoice LDH for an administrative fee of \$2,500 each month.

#### B. Recruitment

1. Recruitment is the hiring of a new nurse who commits to providing a minimum of 120 hours of EHH services to beneficiaries under the age of 21 who are in a Medicaid waiver program in each calendar month.

2. A one-time, lump sum payment of \$5,000 may be paid to any nurse who is hired by the HHA and commits to providing a minimum of 120 hours of EHH services to beneficiaries in a waiver program and has not received the retention lump sum bonus payment outlined in this Chapter.

3. Each nurse may only receive the lump sum recruitment bonus payment once.

#### C. Retention

1. Existing nurses who commit to providing a minimum of 120 hours of EHH services to eligible waiver beneficiaries in a calendar month and have not received the recruitment or retention lump sum bonus payment will receive a \$5,000 retention bonus.

2. Nurses who receive the recruitment or retention lump sum bonus payment shall be eligible to receive a monthly payment of \$200 if they provided at least 120 hours of EHH

services to eligible waiver beneficiaries during the previous calendar month.

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 49:

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 functioning, stability and autonomy as described in R.S. 49:972.

#### **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 no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Small Business Analysis**

In compliance with the Small Business Protection Act, 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 the Act as it provides an administrative fee to home health agencies to make the recruitment and retention payments.

#### **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, no direct and 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 since this proposed Rule provides an administrative fee to the home health agencies to make the recruitment and retention payments.

#### **Public Comments**

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on April 3, 2023.

## **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 March 13, 2023. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on March 30, 2023 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 March 13, 2023. 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