

## NOTICE OF INTENT

### Department of Health Bureau of Health Services Financing

#### Home Health Program Authorizing Authority and Emergency Provisions (LAC 50:XIII.Chapter 1)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XIII.Chapter 1 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.

Act 181 of the 2021 Regular Session of the Louisiana Legislature directed the Department of Health to add nurse practitioners, clinical nurse specialists, and physician assistants as healthcare providers authorized to order home health services. In compliance with Act 181, the Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the Home Health Program in order to add nurse practitioners, clinical nurse specialists, and physician assistants as healthcare providers authorized to order home health services and to repeal emergency provisions that are no longer applicable as a result of this change. In addition, this proposed Rule modifies the locations in which home health services may be provided to be consistent with U.S. Department

of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) requirements.

Title 50  
PUBLIC HEALTH—MEDICAL ASSISTANCE  
Part XIII. Home Health Program  
Subpart 1. Home Health Services

Chapter 1. General Provisions

§101. Definitions

[Formerly LAC 50:XIX.101]

A. The following words and terms, when used in this Subpart 1, shall have the following meanings, unless the context clearly indicates otherwise:

Authorized Healthcare Provider—a physician, nurse practitioner, clinical nurse specialist, or physician assistant licensed, certified, registered, or otherwise authorized to order home healthcare services consistent with Louisiana law.

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*Home Health Services*—patient care services provided in the patient's ~~residential setting~~ home or ~~any setting in which normal life activities take place under the order of a physician~~ residence under the order of an authorized healthcare provider that are necessary for the diagnosis and treatment of the patient's illness or injury, including one or more of the following services:

a. - e. ...

f. medical supplies, equipment and appliances suitable for use in ~~any setting in which normal life activities take~~ the patient's home or place of residence.

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Place of Residence—location where normal life activities take place but does not include a hospital, intermediate care facility for individuals with intellectual disabilities, or any setting in which payment is or could be made under Medicaid for inpatient services that include room and board.

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*Physical Therapy Services*—rehabilitative services necessary for the treatment of the patient's illness or injury or, restoration and maintenance of function affected by the patient's illness or injury. These services are provided with the expectation, based on the ~~physician's~~ authorized healthcare provider's assessment of the patient's rehabilitative potential, that:

a. - b. ...

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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, Office of the Secretary, Bureau of Health

Services Financing, LR 30:431 (March 2004), amended by the Department of Health, Bureau of Health Services Financing, LR 44:59 (January 2018), LR 49:

**§103. Requirements for Home Health Services**

**[Formerly LAC 50:XIX.103]**

A. Home health services shall be based on an expectation that the care and services are medically reasonable and appropriate for the treatment of an illness or injury, and that the services can be performed adequately by the agency in the recipient's ~~residential setting~~home or ~~any setting in which normal life activities take place~~ of residence. For initial ordering of home health services, the ~~physician or authorized non-physician provider (NPP)~~ authorized healthcare provider must document a face-to-face encounter that is related to the primary reason the recipient requires home health services. This face-to-face encounter must occur no more than 90 days before or 30 days after the start of services. For the initial ordering of medical supplies, equipment and appliances, the ~~physician~~ authorized healthcare provider must document that a face-to-face encounter that is related to the primary reason the recipient requires medical equipment occurred no more than six months prior to the start of services. A written plan of care for services shall be evaluated and signed by the ~~physician~~ authorized healthcare provider every 60 days. This plan of care

shall be maintained in the recipient's medical records by the home health agency.

B. Home health services shall be provided in the recipient's ~~residential setting~~ home or ~~any setting in which normal life activities take place, other than a hospital, nursing facility, intermediate care facility for individuals with intellectual disabilities or any setting in which payment is, or could be, made under Medicaid for inpatient services that include room and board~~ of residence.

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, Office of the Secretary, Bureau of Health Services Financing, LR 30:431 (March 2004), amended by the Department of Health, Bureau of Health Services Financing, LR 44:59 (January 2018), LR 49:

#### **§104. Emergency Provisions**

~~A. In the event that the federal or state government declares an emergency or disaster, the Medicaid Program may temporarily allow non-physician practitioners (advanced practice registered nurses and physician assistants) to order and review home health services, including the completion of associated documentation, if such action is deemed necessary to insure~~

~~sufficient services are available to meet beneficiaries' 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, Bureau of Health Services Financing, LR 48:2293 (September 2022), 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 may have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by reducing the waiting time to receive an order for home health services.

#### **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 will have no impact on small businesses.

#### **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, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### **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. 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 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