

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Medical Transportation Program Non-Emergency Medical Transportation American Rescue Plan Act (LAC 50:XXVII.Chapter 5)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XXVII.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 U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) approved the use of funds provided under the American Rescue Plan Act of 2021 (ARPA) for bonus payments to providers of non-emergency medical transportation (NEMT) services. The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which adopted provisions in the Medical Transportation Program in order to establish guidelines for the administration and distribution of ARPA bonus payment funds to eligible NEMT providers (*Louisiana Register*, Volume 49, Number 2). This proposed Rule is being promulgated to continue the provisions of the January 20, 2023 Emergency Rule.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XXVII. Medical Transportation Program

Chapter 5. Non-Emergency Medical Transportation

Subchapter A. General Provisions

§505. Requirements for Coverage

A. Payment shall only be authorized for the least costly means of transportation available. The least costly means of transportation shall be determined by the department or its designee and considered the beneficiary's choice of transportation, the level of service required to safely transport the beneficiary (e.g., ambulatory, wheelchair, transfer), and the following hierarchy:

1. - 3. ...

4. ~~profit~~for-profit providers enrolled in the Medicaid Program.

B. - 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, Bureau of Health Services Financing, LR 47:1639 (November 2021), amended LR 49:

Subchapter C. Provider Responsibilities

§517. Provider Enrollment

A. - C. ...

D. ~~A provider~~All NEMT providers must agree to cover the entire parish or parishes for which he or she provides non-emergency medical transportation services.

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 47:1639 (November 2021), amended LR 49:

Subchapter E. Non-Emergency Medical Transportation American Rescue Plan Act

§531. Non-Emergency Medical Transportation Bonus Payments

A. General Provisions

1. Non-emergency medical transportation (NEMT) providers that are fully credentialed in the Medicaid Program may be eligible to receive a bonus payment under the Department of Health's (LDH) American Rescue Plan Act (ARPA) NEMT Program until the program's federal funds are exhausted or through the conclusion of the program in March 2024.

2. Fully credentialed NEMT providers who meet all eligibility requirements are entitled to a monthly disbursement of \$500 per vehicle, for up to three vehicles per month, totaling a maximum payment of \$1,500 per month per transportation provider. LDH will determine eligibility for monthly payments based on the NEMT provider's ongoing compliance

for all provider, driver, and vehicle requirements set forth by the Medicaid Program and the LDH ARPA NEMT Program.

3. A NEMT provider is a provider of NEMT services and for the purpose of this bonus payment, includes non-profit and for-profit providers.

4. LDH will administer all payments for the LDH ARPA NEMT Program.

5. In order to receive payments under the LDH ARPA NEMT Program, the NEMT provider shall do the following:

a. accede to all provisions of the LDH ARPA NEMT Program and execute a contractual agreement with LDH, solely for the distribution of ARPA funds;

b. create an account with LAGov to ensure eligibility of payment,

c. maintain ongoing compliance for all provider, driver, and vehicle requirements set forth by the Medicaid Program;.

d. submit reporting and credentialing documentation for all drivers and vehicles within their individual company used for NEMT services on a monthly basis. Failure to meet program time requirements shall result in loss of the monthly bonus payment; and

e. submit a monthly attestation to certify the accuracy of the submitted supporting and credentialing documentation.

6. NEMT services are ineligible and shall not be submitted as a completed service if the status of the NEMT service rendered results in one of the following:

a. the provider is a no-show;

b. no NEMT vehicle is available;

c. no NEMT driver is available; or

d. the NEMT provider is late which causes the beneficiary to miss his or her scheduled Medicaid covered service

B. Payments

1. Transportation providers that meet the requirements for both the LDH ARPA NEMT Program and Medicaid Program will receive a single lump sum payment of \$500 per vehicle, for a maximum of three vehicles, totaling a maximum payment of \$1,500 per month. Transportation providers must meet all requirements on a monthly basis for payment 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, 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 or 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 will have a positive impact on small businesses as it increases reimbursement.

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 increases payments to providers for the services they already render.

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 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