

## **NOTICE OF INTENT**

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

#### **Professional Services Program Reimbursement Methodology (LAC 50:IX.Chapter 151)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:IX.Chapter 151 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 proposes to amend the provisions governing the Professional Services Program in order to remove information related to programs no longer in operation, remove provisions that are located in other places within the *Louisiana Administrative Code*, clarify the reimbursement methodology for certain providers and services, and to provide for a rate restoration related to neonatal critical care services.

#### **Title 50 PUBLIC HEALTH—MEDICAL ASSISTANCE Part IX. Professional Services Program Subpart 15. Reimbursement**

#### **Chapter 151. Reimbursement Methodology**

#### **Subchapter B. Physician Services**

**§15111. General Provisions**

A. ~~The reimbursement rates for physician services~~  
Physicians shall be ~~a flat fee for each covered service as~~  
~~specified on the established Medicaid~~ reimbursed according to  
the established fee schedule or billed charges, whichever is the  
lesser amount. ~~The reimbursement rates shall be based on a~~  
~~percentage of the Louisiana Medicare Region 99 allowable for a~~  
~~specified year.~~

B. ~~Optometry Services~~ Optometrists rendering eye care  
services shall be reimbursed using the same methodology as  
physicians rendering the same eye care services.

~~1. Effective October 1, 2012, eye care services~~  
~~rendered by a participating optometrist, within their scope of~~  
~~optometric practice, shall be classified and reimbursed under~~  
~~the Medicaid state plan as a mandatory physician service to the~~  
~~same extent, and according to the same standards as physicians~~  
~~who perform the same eye care services.~~

~~2. Recipients in the Early and Periodic Screening,~~  
~~Diagnosis and Treatment (EPSDT) Program are excluded from~~  
~~optometry service limits.~~

~~3. The Medicaid Program shall not provide~~  
~~reimbursement for eyeglasses provided to Medicaid recipients 21~~  
~~years of age or older.~~ 1. - 3. Repealed.

C. Advanced practice registered nurses, physician assistants, and licensed midwives shall be reimbursed as a percentage of physician reimbursement, as specified by the Medicaid Program.

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 39:3300 (December 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

**§15113. Reimbursement Methodology**

A. ~~Effective for dates of service on or after October 15, 2007, the reimbursement for selected physician services shall be 90 percent of the 2007~~ For newly added procedure codes for beneficiaries age 0 through 15 years old, the Medicaid fee shall be set at 90 percent of the current year's Louisiana Region 99 Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated fee. For newly added procedure codes for beneficiaries age 16 years and older, the Medicaid fee shall be set at 75 percent of the current year's Louisiana Region 99 Medicare allowable fee.

1. ~~The reimbursement shall remain the same for those services that are currently being reimbursed at a rate that is~~

~~between 90 percent and 120 percent of the 2007 Louisiana~~If there  
is no corresponding Medicare ~~Region 99 allowable~~ fee, the  
Medicaid fee shall be set based on a review of other state  
Medicaid Program fees, other health insurer fees in Louisiana,  
or as determined by either the Louisiana Medicaid Medical  
Director or the contracted physician consultant of the  
department's fiscal intermediary.

2. ~~For those services that are currently reimbursed~~  
~~at a rate above 120 percent of the 2007 Louisiana~~If  
establishing a Medicaid fee based on Medicare ~~Region 99~~  
~~allowable, effective for dates of service on or after October~~  
~~15, 2007, the reimbursement for these services shall be reduced~~  
~~to 120 percent of the 2007~~rates results in a fee that is  
reasonably expected to be insufficient to ensure that the  
service is available to beneficiaries, an alternate methodology  
shall be used. The Medicaid fee shall be set based on a review  
of other state Medicaid Program fees, other health insurer fees  
in Louisiana,~~Medicare Region 99 allowable~~or as determined by  
either the Louisiana Medicaid Medical Director or the contracted  
physician consultant of the department's fiscal intermediary.

B. Effective for dates of service on or after ~~January 1,~~  
~~2008~~October 15, 2007, the reimbursement for selected physician  
services shall be 90 percent of the ~~2008~~2007 Louisiana Medicare

Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated.

1. The reimbursement shall remain the same for those services that are currently being reimbursed at a rate that is between 90 percent and 120 percent of the ~~2008~~2007 Louisiana Medicare Region 99 allowable.

2. For those services that are currently reimbursed at a rate above 120 percent of the ~~2008~~2007 Louisiana Medicare Region 99 allowable, effective for dates of service on or after ~~January 1, 2008~~October 15, 2007, the reimbursement for these services shall be reduced to 120 percent of the ~~2008~~2007 Louisiana Medicare Region 99 allowable.

C. Effective for dates of service on or after ~~August 4, 2009~~January 1, 2008, the reimbursement for ~~all~~selected physician services ~~rendered to recipients 16 years of age or older~~ shall be ~~reduced to 80~~90 percent of the ~~2009~~2008 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated.

1. ~~For~~ The reimbursement shall remain the same for those services that are currently reimbursed at a rate ~~below 80~~that is between 90 percent and 120 percent of the 2008 Louisiana Medicare Region 99 allowable, ~~effective for dates of service on or after August 4, 2009, the reimbursement for these~~

~~services shall be increased to 80 percent of the Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.~~

2. ~~The following physician~~For those services that are ~~excluded from the rate adjustment:~~currently reimbursed at a rate above 120 percent of the 2008 Louisiana Medicare Region 99 allowable, effective for dates of service on or after January 1, 2008, the reimbursement for these services shall be reduced to 120 percent of the 2008 Louisiana Medicare Region 99 allowable.

~~a. preventive medicine evaluation and management;~~

~~b. immunizations;~~

~~c. family planning services; and~~

~~d. select orthopedic reparative services.~~

~~3. Effective for dates of service on or after November 20, 2009, the following physician services are excluded from the rate adjustment:~~

~~a. prenatal evaluation and management; and~~

~~b. delivery services.~~2.a - 3.b. Repealed.

D. Effective for dates of service on or after ~~January 22, 2010~~August 4, 2009, the reimbursement for all physician services rendered to recipients 16 years of age or older shall be reduced

to ~~75~~80 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

1. ~~The following physician~~ For those services ~~rendered to recipients 16 years of age or older shall be~~ that are currently reimbursed at a rate below 80 percent of the ~~2009~~ Louisiana Medicare Region 99 allowable, effective for dates of service on or after August 4, 2009, the reimbursement for these services shall be increased to 80 percent of the Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount~~+~~.

~~a. prenatal evaluation and management services;~~  
~~b. preventive medicine evaluation and management services; and~~  
~~c. obstetrical delivery services.~~ a. - c.

Repealed.

2. The following physician services are excluded from the rate adjustment:

a. preventive medicine evaluation and management;  
b. immunizations;  
c. family planning services; and  
d. select orthopedic reparative services.

3. Effective for dates of service on or after November 20, 2009, the following physician services are excluded from the rate adjustment:

- a. prenatal evaluation and management; and
- b. delivery services.

E. ...

1. The following physician services rendered to recipients 16 years of age or older shall be reimbursed at 80 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount:

- a. prenatal evaluation and management services;
- b. preventive medicine evaluation and management services; and
- c. obstetrical delivery services.

F. Effective for dates of service on or after January 22, 2010, ~~all physician-administered drugs shall be reimbursed at 90~~ physician services rendered to recipients 16 years of age or older shall be reduced to 75 percent of the 2009 Louisiana Medicare ~~average sales price (ASP)~~ Region 99 allowable or billed charges, whichever is the lesser amount.

G. - H.3. ...



I. Effective for dates of service on or after July 1, 2012, reimbursement shall be as follows for the designated physician services:

1. reimbursement for professional consultation services (procedure ~~(consult)~~ codes 99241-99245 and 99251-99255) shall be discontinued;

2. reimbursement for cesarean delivery ~~fees~~ (procedure codes 59514-59515) shall be reduced to equal ~~corresponding~~ reimbursement for vaginal delivery fees (procedure codes 59409-59410); and

3. ...

J. Effective for dates of service on or after ~~January 1, 2013 through December 31, 2014~~ February 1, 2013, the reimbursement for certain physician services shall be ~~reimbursed at payment rates consistent with the methodology that applies to such services and physicians under part B of title XVIII of the Social Security Act (Medicare)~~ reduced by 1 percent of the rate in effect on January 31, 2013.

~~1. The following physician service codes, when covered by the Medicaid Program, shall be reimbursed at an increased rate:~~

~~\_\_\_\_\_ a. evaluation and management codes 99201 through 99499; or~~

~~\_\_\_\_\_ b. their successor codes as specified by the U.S. Department of Health and Human Services.~~

~~\_\_\_\_\_ 2. Qualifying Criteria. Reimbursement shall be limited to specified services furnished by or under the personal supervision of a physician, either a doctor of osteopathy or a medical doctor, who attests to a specialty or subspecialty designation in family medicine, general internal medicine or pediatrics, and who also attests to meeting one or more of the following criteria:~~

~~\_\_\_\_\_ a. certification as a specialist or subspecialist in family medicine, general internal medicine or pediatric medicine by the American Board of Medical Specialists (ABMS), the American Board of Physician Specialties (ABPS), or the American Osteopathic Association (AOA); or~~

~~\_\_\_\_\_ b. specified evaluation and management and vaccine services that equal at least 60 percent of total Medicaid codes paid during the most recently completed calendar year, or for newly eligible physicians the prior month.~~

~~\_\_\_\_\_ 3. Payment Methodology. For primary care services provided in calendar years 2013 and 2014, the reimbursement shall be the lesser of the:~~

~~\_\_\_\_\_ a. Medicare Part B fee schedule rate in calendar years 2013 or 2014 that is applicable to the place of~~

~~service and reflects the mean value over all parishes (counties) of the rate for each of the specified or, if greater, the payment rates that would be applicable in those years using the calendar year 2009 Medicare physician fee schedule conversion factor multiplied by the calendar year 2013 and 2014 relative value units in accordance with 42 CFR 447.405. If there is no applicable rate established by Medicare, the reimbursement shall be the rate specified in a fee schedule established and announced by the Centers for Medicare and Medicaid Services (CMS); or~~

~~\_\_\_\_\_ b. \_\_\_\_\_ provider's actual billed charge for the service.~~

~~\_\_\_\_\_ 4. The department shall make payment to the provider for the difference between the Medicaid rate and the increased rate, if any.~~  
1. - 4. Repealed.

K. Effective for dates of service on or after February 1, ~~2013~~2018, ~~the~~ physicians, who qualify under the provisions of §15110 for services rendered in affiliation with a state-owned or operated entity that has been designated as an essential provider, shall receive enhanced reimbursement ~~for certain physician rates up to the community rate level for qualifying services shall be reduced by 1 percent of the rate in effect on January 31, 2013~~ as determined in §15110.C.

L. ~~The reimbursement for newly payable~~ Effective for  
dates of service on or after May 1, 2021, the fee on file for  
inpatient neonatal critical care ~~services not covered by~~  
~~Medicare, when there is no established rate set by Medicare,~~  
~~shall be based on review of statewide billed charges for that~~  
~~service in comparison with set charges of a similar service~~ (as  
specified in CPT) shall be increased by 5 percent.

~~1. If there is no similar procedure or service, the~~  
~~reimbursement shall be based upon a consultant physicians'~~  
~~review and recommendations.~~

~~2. For procedures which do not have established~~  
~~Medicare fees, the Department of Health and Hospitals, or its~~  
~~designee, shall make determinations based upon a review of~~  
~~statewide billed charges for that service in comparison with set~~  
~~charges for similar services.~~

~~3. Reimbursement shall be the lesser of the billed~~  
~~charges or the Medicaid fee on file.~~

~~M. Effective for dates of service on or after June 20,~~  
~~2015, the reimbursement for the physician-administered drug, 17~~  
~~Hydroxyprogesterone (17P), shall increase to \$69 per dose.~~

~~N. Effective for dates of service on or after February 1,~~  
~~2018, physicians, who qualify under the provisions of S15110 for~~  
~~services rendered in affiliation with a state-owned or operated~~

~~entity that has been designated as an essential provider, shall receive enhanced reimbursement rates up to the community rate level for qualifying services as determined in §15110.C.L.1. -~~  
N. 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 36:1252 (June 2010), amended LR 36:2282 (October 2010), LR 37:904 (March 2011), LR 39:3300, 3301 (December 2013), LR 41:541 (March 2015), LR 41:1119 (June 2015), LR 41:1291 (July 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 44:62 (January 2018), LR 47:

#### **Subchapter E. Family Planning Services**

##### **§15141. General Provisions ~~(Reserved)~~**

A. Reimbursement for family planning services shall be made according to the established fee schedule or billed charges, whichever is the lesser amount.

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:

##### **§15143. Reimbursement Methodology**

A. The reimbursement methodology for family planning services ~~shall be a flat fee for each covered service as specified on the established Medicaid fee schedule. Fee schedule rates are based on a percentage of the Louisiana Medicare Region 99 allowable for a specified year~~ is the same as for physician services.

~~B. Family planning services are currently reimbursed at a rate that is between 90 percent and 120 percent of the 2008 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.~~

~~C. Effective for dates of service on or after January 22, 2010, the reimbursement rates for family planning services rendered by a physician shall be 75 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.~~

~~D. Effective for dates of service on or after July 1, 2012, the reimbursement rates for family planning services rendered by a physician shall be reduced by 3.7 percent of the rates in effect on June 30, 2012.~~

~~1. Effective for dates of service on or after February 20, 2013, the 3.7 percent reimbursement rate reduction for family planning services rendered by a physician shall be adjusted to 3.4 percent of the rates in effect on June 30, 2012.~~

~~\_\_\_\_\_ E. Office of Public Health Uncompensated Care Payments~~

~~1. Effective for dates of service on or after July 1, 2012, the department shall provide the Office of Public Health (OPH) with Medicaid payment of their uncompensated care costs for services rendered to Medicaid recipients. The Office of Public Health shall certify public expenditures to the Medicaid Program in order to secure federal funding for services provided at the cost of OPH.~~

~~\_\_\_\_\_ 2. The OPH will submit an estimate of cost for services provided under this Chapter.~~

~~\_\_\_\_\_ a. The estimated cost will be calculated based on the previous fiscal year's expenditures and reduced by the estimate of payments made for services to OPH under this Chapter, which will be referred to as the net uncompensated care cost. The uncompensated care cost will be reported on a quarterly basis.~~

~~\_\_\_\_\_ 3. Upon completion of the fiscal year, the Office of Public Health will submit a cost report which will be used as a settlement of cost within one year of the end of the fiscal year.~~

~~\_\_\_\_\_ a. Any adjustments to the net uncompensated care cost for a fiscal year will be reported on the CMS Form 64~~

~~as a prior period adjustment in the quarter of settlement.~~B. -

E.3.a. 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 36:2566 (November 2010), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:96 (January 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:1781 (July 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

**§15145. Long-Acting Reversible Contraceptives**

~~A. The reimbursement rates for acquiring long-acting reversible contraceptives shall be adjusted to accommodate annual changes in acquisition cost. Physicians and professional services practitioners shall be reimbursed for the contraceptive according to the fee on file at the time of insertion.~~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 40:2261



(November 2014), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:

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 Act 820 of the 2008 Regular Session of the Louisiana Legislature, 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, as described in R.S. 49:965.2 et seq.

#### **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 some providers to provide the same level of service, and may enhance those provider's ability to provide the same level of service as described in HCR 170 since this Emergency Rule increases payments to some providers for the same 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 March 1, 2021.

#### **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 February 9, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on February 28, 2021 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 February 9, 2021. 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