

NOTICE OF INTENT

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

**Managed Care for Physical and Behavioral Health
Skilled Nursing Facility Services
(LAC 50:I.3507)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:I.3507 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 currently excludes recipients who receive long-term care (LTC) services from participation in managed care under the Healthy Louisiana program. However, managed care organizations (MCOs) currently utilize LTC facilities, namely skilled nursing facility providers, to provide transitional health care/rehabilitation services as an "in lieu of" service to members who are no longer in need of acute care hospital services. The department has determined that it is necessary to amend the provisions governing managed care for physical and behavioral health in order to allow MCOs to utilize skilled nursing facilities for members who transition from acute care

hospital services as a step-down continuum of care and to align the governing authorities with current operations and practices.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Managed Care for Physical and Behavioral Health

Chapter 35. Managed Care Organization Participation Criteria

§3507. Benefits and Services

A. - F.1. ...

G. Excluded Services

1. The following services will continue to be reimbursed by the Medicaid Program on a fee-for-service basis, with the exception of dental services which will be reimbursed through a dental benefits prepaid ambulatory health plan under the authority of a 1915(b) waiver. The MCO shall provide any appropriate referral that is medically necessary. The department shall have the right to incorporate these services at a later date if the member capitation rates have been adjusted to incorporate the cost of such service. Excluded services include:

a. - c. ...

d. nursing facility services;

EXCEPTION: Skilled nursing facility services may be utilized for members who transition from acute care hospital services as a step-down continuum of care.

G.1.e. - H.5. ...

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 37:1585 (June 2011), amended LR 39:92 (January 2013), repromulgated LR 39:318 (February 2013), LR 41:936 (May 2015), LR 41:2367 (November 2015), LR 42:755 (May 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 44:61 (January 2018), 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 a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 as it allows members of managed care organizations in need of continued health care services to transition from acute care hospitals to skilled nursing facilities.

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 a positive impact on child, individual or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it allows members of managed care organizations in need of continued health care services to transition from acute care hospitals to skilled nursing facilities.

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 Wednesday, August 29, 2018 at 9:30 a.m. in Room 118, 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: Managed Care for Physical
and Behavioral Health
Skilled Nursing Facility
Services

Date Rule Takes Effect: October 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 18-19. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 18-19 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 18-19. It is anticipated that \$270 will be collected in FY 18-19 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 managed care for physical and behavioral health in order to allow managed care organizations (MCOs) to continue to utilize long-term care facilities, namely skilled nursing facility providers, to provide transitional health care/rehabilitation services as an "in lieu of" service to MCO members who are no longer in need of acute care hospital services, and to align the governing authorities with current operations and practices. Managed care members who transition from acute care hospital services may benefit from this proposed rule since it allows skilled nursing facilities services as a step-down continuum of care. This proposed Rule may be beneficial to skilled nursing facility providers since they will be reimbursed sooner for services rendered to managed care members. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to the Medicaid Program for FY 18-19, FY 19-20 and FY 20-21 since these "in lieu of" services are already calculated and included in the managed care rate reimbursed to the health plans.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele for Jen Steele
Signature of Agency Head
or Designee

Evan Brasel, Staff Director
Legislative Fiscal Officer
or Designee

Jen Steele, Medicaid Director
Typed name and Title of
Agency Head or Designee

7/10/18
Date of Signature

Shashan Joo
LDH/BHSF Budget Head

07/10/18
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 managed care for physical and behavioral health in order to allow managed care organizations (MCOs) to continue to utilize long-term care facilities, namely skilled nursing facility providers, to provide transitional health care/rehabilitation services as an "in lieu of" service to MCO members who are no longer in need of acute care hospital services, and to align the governing authorities with current operations and practices.

- 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 currently excludes recipients who receive long-term care (LTC) services from participation in managed care under the Healthy Louisiana program. However, managed care organizations (MCOs) currently utilize LTC facilities, namely skilled nursing facility providers, to provide transitional health care/rehabilitation services as an "in lieu of" service to members who are no longer in need of acute care hospital services. The department has determined that it is necessary to amend the provisions governing managed care for physical and behavioral health in order to allow MCOs to utilize skilled nursing facilities for members who transition from acute care hospital services as a step-down continuum of care and to align the governing authorities with current operations and practices.

- 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 18-19. It is anticipated that \$540 will be expended in FY 18-19 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 18-19 | FY 19-20 | FY 20-21 |
|-----------------------|--------------|------------|------------|
| PERSONAL SERVICES | | | |
| OPERATING EXPENSES | \$540 | \$0 | \$0 |
| PROFESSIONAL SERVICES | | | |
| OTHER CHARGES | | | |
| REPAIR & CONSTR. | | | |
| POSITIONS (#) | | | |
| TOTAL | \$540 | \$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 18-19, \$540 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 18-19 | FY 19-20 | FY 20-21 |
|--------------------|--------------|------------|------------|
| STATE GENERAL FUND | \$270 | \$0 | \$0 |
| SELF-GENERATED | | | |
| FEDERAL FUND | \$270 | \$0 | \$0 |
| OTHER (Specify) | | | |
| Total | \$540 | \$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 18-19 | FY 19-20 | FY 20-21 |
|---------------------------|--------------|------------|------------|
| STATE GENERAL FUND | | | |
| AGENCY SELF-GENERATED | | | |
| RESTRICTED FUNDS* | | | |
| FEDERAL FUNDS | \$270 | \$0 | \$0 |
| LOCAL FUNDS | | | |
| Total | \$270 | \$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 18-19, \$270 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 managed care for physical and behavioral health in order to allow managed care organizations (MCOs) to continue to utilize long-term care facilities, namely skilled nursing facility providers, to provide transitional health care/rehabilitation services as an "in lieu of" service to MCO members who are no longer in need of acute care hospital services, and to align the governing authorities with current operations and practices.

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

Managed care members who transition from acute care hospital services may benefit from this proposed rule since it allows skilled nursing facilities services as a step-down continuum of care. This proposed Rule may be beneficial to skilled nursing providers since they will be reimbursed sooner for services rendered to MCO members. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to the Medicaid Program for FY 18-19, FY 19-20 and FY 20-21 since these "in lieu of" services are already included in the managed care rate.

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.