

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Third Party Liability Pay and Chase (LAC 50:I.8301)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:I.8301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act (the Act). This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Bipartisan Budget Act of 2018 (BBA) amended section 1902(a)(25)(E) of the Act to require states to use standard coordination of benefits cost avoidance when processing claims for prenatal services and implemented a "wait and see" period of 100 days for claims associated with medical support enforcement. In compliance with the BBA, the Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing recovery for claims involving third party liability in order to ensure that the current pay and chase methodology is reflected in the *Louisiana Administrative Code*.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 9. Recovery

Chapter 83. Third Party Liability

Subchapter A. Claims

§8301. Pay and Chase

A. ...

B. Medicaid claims for services covered under the State Plan will be cost avoided when there is probable third party liability unless the claim is for one of the following services:

1. ~~prenatal~~primary preventive pediatric care
~~pregnant women~~diagnoses are confined to those listed under
Diagnosis Codes Related to Preventive Pediatric Care Services at
www.lamedicaid.com;

a. Individuals under age 21 qualify; and
b. Hospitals are not included and must continue
to file claims with the health insurance carriers;

2. ~~preventative pediatric services including~~ early
and periodic screening, diagnosis and treatment (EPSDT) of
~~individuals under the age of 21 years~~medical, vision, and
hearing services;

3. ~~services provided to an individual for whom child~~
~~support enforcement~~EPSDT dental ~~services are being carried out~~
~~by the Title IV-D state agency.;~~

4. EPSDT services to children with disabilities
(formerly referred to as school-based health services) which
result from screening and are rendered by school boards;

5. services which are a result of an EPSDT referral, indicated by entering "Y" in block 24H of the CMS-1500 claim form, sometimes called HCFA-1500, or "1" as a condition code on the UB-92 (form locators 24 through 30); and

6. services for Medicaid eligibles whose health insurance is provided by an absent parent who is under the jurisdiction of the state child support enforcement agency are subject to a "wait and see period" that was effective April 1, 2021.

a. Wait and See—payment of a claim only after documentation is attached to a hard copy claim and submitted to the state's fiscal intermediary demonstrating that 100 days have elapsed since the provider billed the responsible third party and remains to be paid.

C. In processing these claims, the Medicaid agency will pay the claim and seek reimbursement from liable third parties, utilizing the claims method of payment called "pay and chase". ~~When the claim is for a service provided to an individual for whom child support enforcement services are being enforced through the Title IV-D state agency, the provider is not required to bill a liable third party prior to billing the state Medicaid agency. The state elects to process these claims in the same manner as for prenatal care and preventive pediatric services, that is, through the pay and chase process.~~

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 Human Resources, Office of Family Security, LR 13:578 (October 1978), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 17:781 (August 1991), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:848 (May 2006), amended 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 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, 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.

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 August 29, 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 August 9, 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 August 24, 2023 in Room 173 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 August 9, 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.

Stephen R. Russo, JD

Secretary