

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Pharmacy Benefits Management Program Managed Care Supplemental Rebates (LAC 50:XXIX.1103)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:XXIX.1103 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 promulgated a Rule which amended the provisions governing the Pharmacy Benefits Management Program in order to establish provisions for the Medicaid Program's participation in The Optimal PDL \$olution (TOP\$) State Supplemental Rebate Agreement Program and assure compliance with the technical requirements of R.S. 49:953 (*Louisiana Register*, Volume 43, Number 5).

The department has now determined that it is necessary to amend the provisions governing the TOP\$ State Supplemental Rebate Agreement Program in order to include pharmacy utilization of managed care organizations (MCOs) that participate in the Healthy Louisiana (formerly Bayou Health) Program and implement a single state managed preferred drug list

for selected therapeutic classes to maximize supplemental rebates on MCO utilization.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XXIX. Pharmacy

Chapter 11. State Supplemental Rebate Agreement Program

§1103. Managed Care Organization Utilization

A. Effective for dates on or after October 1, 2017, the TOP\$ State Supplemental Rebate Agreement Program shall include pharmacy utilization of managed care organizations (MCOs) that participate in the Healthy Louisiana Program for state supplemental drug rebates on selected therapeutic classes.

1. The Healthy Louisiana Program's contracts with the participating MCOs shall:

a. allow inclusion of the pharmacy utilization data for supplemental rebate purposes; and

b. mandate that each participating MCO shall align their respective formulary(ies) and/or preferred drug list (PDL) on selected therapeutic classes, as applicable, to the fee-for-service (FFS) preferred drug list and adopt FFS prior authorization criteria for the non-preferred agents.

B. The Department of Health shall implement a single state managed PDL for selected therapeutic classes for all participating MCOs in order to maximize the supplemental and federal rebates on MCO utilization.

C. Supplemental rebates on MCO utilization shall be excluded from best price or average manufacturer price (AMP) calculations.

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 43:

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 no impact on family functioning, stability and autonomy as described in R.S. 49:972.

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.

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 Thursday, July 27, 2017 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