

## **NOTICE OF INTENT**

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

#### **Intermediate Care Facilities for Persons with Intellectual Disabilities Complex Care Reimbursements (LAC 50:VII.32915)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:VII.32915 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 reimbursement to private non-state intermediate care facilities for persons with intellectual disabilities (ICFs/IID) in order to revise and streamline the process by which ICFs/IID can request add-on rates for medically qualified beneficiaries receiving above routine care and whose staffing levels exceed the required minimum.

## **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part VII. Long Term Care**

#### **Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities**

#### **Chapter 329. Reimbursement Methodology**

## Subchapter A. Non-State Facilities

### §32915. Complex Care Reimbursements

A. Private (non-state) intermediate care facilities for individuals with intellectual disabilities (ICFs/IID) may receive an add-on payment to the per diem rate for providing complex care to Medicaid ~~recipients who require such services~~beneficiaries, when medically necessary. The add-on ~~rate adjustment~~payment shall be a flat fee daily amount and ~~may consist~~consists of payment for ~~any~~ one of the following components alone or in combination:

1. ~~equipment only~~direct service worker add-on;
2. ~~direct service worker (DSW)~~skilled nursing add-on; and
3. ~~nursing only~~equipment add-on;
4. ~~equipment and DSW~~;
5. ~~DSW and nursing~~;
6. ~~nursing and equipment~~; or
7. ~~DSW, nursing, and equipment~~. 4. - 7. Repealed.

B. ~~Private (non-state) owned ICFs/IID may qualify for an add-on rate for recipients meeting documented major~~ To qualify, beneficiaries must meet medical ~~or behavioral complex care necessity~~ criteria established by the Medicaid Program. ~~This must be documented on the complex support need screening tool provided by the department. All~~ Supporting medical documentation

~~indicated by the screening tool form and any additional documentation requested by the department~~ must also be ~~provided to qualify for the add-on payment~~submitted as specified by the Medicaid Program. The duration of approval of the add-on payment(s) is at the sole discretion of the Medicaid Program and shall not exceed 1 year.

C. ~~The complex support need screening tool~~ Medical necessity of the add-on payment(s) shall be ~~completed and submitted to~~ reviewed and re-determined by the ~~department Medicaid Program no less than~~ annually from the date of initial approval of each add-on payment. This ~~annual submittal~~ review shall be ~~accompanied by all~~ performed in the same manner and using the same medical ~~documentation indicated by the screening tool form and any additional documentation requested by the department.~~ necessity criteria as the initial review.

D. ~~In order to meet~~ Each add-on payment requires documentation that the ~~complex care criteria, the presence of a significant medical or behavioral health need must exist and be documented. This must include:~~ enhanced supports are already being provided to the beneficiary, as specified by the Medicaid program.

~~1. endorsement of at least one qualifying condition with supporting documentation; and~~

~~2. endorsement of symptom severity in the appropriate category based on qualifying condition(s) with supporting documentation.~~

~~a. Qualifying conditions for complex care must include at least one of the following as documented on the complex support need screening tool:~~

~~i. significant physical and nutritional needs requiring full assistance with nutrition, mobility, and activities of daily living;~~

~~ii. complex medical needs/medically fragile; or~~

~~iii. complex behavioral/mental health needs~~  
1. - 2.a.iii. Repealed.

E. ~~Enhanced Supports. Enhanced supports~~ One of the following admission requirements must be ~~provided and verified with supporting documentation met in order~~ to qualify for the ~~add-on payment. This includes~~ add-on payment:

1. ~~endorsement and~~ the beneficiary has been admitted to the facility for more than 30 days with supporting documentation ~~indicating the need for additional direct service worker resources~~ of medical necessity; or

2. ~~endorsement and~~ the beneficiary is transitioning from another similar agency with supporting documentation

~~indicating the need for additional nursing resources; or~~of  
medical necessity.

3. ~~endorsement and supporting documentation~~  
~~indicating the need for enhanced equipment resources (beyond~~  
~~basic equipment such as wheelchairs and grab bars).~~Repealed.

F. ~~One of the following admission requirements must be~~  
~~met in order to qualify for the~~The Medicaid Program shall  
require compliance with all applicable laws, rules, and  
regulations as a condition of an ICF/IID's qualification for any  
complex care add-on ~~payment:~~payment(s) and may evaluate such  
compliance in its initial annual qualifying reviews.

~~1. the recipient has been admitted to the facility~~  
~~for more than 30 days with supporting documentation of necessity~~  
~~and provision of enhanced supports; or~~

~~2. the recipient is transitioning from another~~  
~~similar agency with supporting documentation of necessity and~~  
~~provision of enhanced supports.~~1. - 2. Repealed.

G. ~~Qualification for a complex care add-on payment may be~~  
~~reviewed and re-determined by the department annually from the~~  
~~date of initial approval of each add-on payment. This review~~  
~~shall be performed in the same manner and using the same~~  
~~standard as the initial qualifying review under this section.~~The  
following additional requirements apply:

1. Beneficiaries receiving enhanced rates must be included in annual surveys to ensure continuation of supports and review of individual outcomes.

2. Fiscal analysis and reporting is required annually.

~~H. The department may require compliance with all applicable laws, rules, and regulations as a condition of an ICF/IID's qualification for the complex care add-on rate and may evaluate such compliance in its initial and annual qualifying reviews.~~

~~I. All of the following criteria will apply for continued evaluation and payment for complex care.~~

~~1. Recipients receiving enhanced rates will be included in annual surveys to ensure continuation of supports and review of individual outcomes.~~

~~2. Fiscal analysis and reporting will be required annually.~~

~~3. The provider will be required to report on the following outcomes:~~

~~a. hospital admissions and diagnosis/reasons for admission;~~

~~b. emergency room visits and diagnosis/reasons for admission;~~

~~c. major injuries;~~

~~d. falls; and~~

~~e. behavioral incidents.~~ H. - I.3.e. 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 42:276 (February 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 44:1447 (August 2018), LR 45:273 (February 2019), LR 48:

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 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 Patrick Gillies, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Mr. Gillies is responsible for responding to inquiries regarding this proposed Rule. The



deadline for submitting written comments is at 4:30 p.m. on August 1, 2022.

### **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 July 11, 2022. 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 July 28, 2022 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 July 11, 2022. 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