

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Medical Transportation Program Emergency Medical Transportation (LAC 50:XXVII.Chapter 3)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50: XXVII.Chapter 3 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 U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) requires reimbursement for emergency ambulance services to transition from the Full Medicaid Pricing program to an approved federal supplemental payment program by July 1, 2023. In compliance with CMS requirements, the Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing reimbursement in the Medical Transportation Program in order to align the reimbursement rates established for emergency ambulance services and providers with current practice for Medicaid managed care and fee-for-service (*Louisiana Register*, Volume 49, Number 5). This proposed Rule

is being promulgated to continue the provisions of the July 1, 2023 Emergency Rule.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXVII. Medical Transportation Program

Chapter 3. Emergency Medical Transportation

Subchapter A. Reserved.

Subchapter B. Ground Transportation

§325. Reimbursement

A. The Medicaid reimbursement for ~~land-based~~ground ambulance services is the rate established in the state fee schedule ~~(based on Medicare rates)~~ for emergency ambulance transport, basic life support, advanced life support and mileage, oxygen, intravenous fluids, and disposable supplies administered during the emergency ambulance transport minus the amount paid by any liable third party coverage.

B. - J. ...

K. Effective for dates of service on or after July 1, 2023, the reimbursement rates for emergency ground ambulance transportation services shall be reimbursed based on the Louisiana Medicaid fee schedule.

EXCEPTION: Except as otherwise noted in the plan, state-developed fee schedule rates are established separately for governmental, New Orleans-based governmental, and private providers of ambulance transportation services to account

for cost variability across these provider types and to maintain access to care through alignment with historic payment levels.

1. The agency's fee schedule rate, set as of July 1, 2023, is effective for services provided on or after that date. All rates are published on the agency's website at: <https://www.lamedicaid.com>.

2. The fee schedule was established as a function of historical rates in effect as of January 1, 2023 plus an enhancement which was calculated to achieve total fee schedule reimbursement as a percentage of average commercial rates (ACR), with the clarifications listed within Subparagraph a through c below:

a. governmental ambulance providers include those ambulance providers who are owned or operated by a public organization such as state, federal, parish, or city entities;

b. New Orleans-based governmental ambulance providers include ambulance providers located within the city of New Orleans; and

c. private ambulance transportation providers include corporations, limited liability companies, partnerships, or sole proprietors. Private providers must comply with all state laws and the regulations of any governing state agency, commission, or local entity to which they are subject as a

condition of enrollment and continued participation in 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, Office of the Secretary, Bureau of Health Services Financing, LR 34:878 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1248 (June 2010), LR 36:2564 (November 2010), LR 37:3029 (October 2011), LR 39:1285 (May 2013), LR 40:1379 (July 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

§327. Supplemental Payments for Ambulance Providers

A. Effective for dates of service on or after September 20, 2011, quarterly supplemental payments ~~shall~~may be issued to qualifying ambulance providers for emergency medical transportation services rendered during the quarter.

B. - E.7. ...

8. The department ~~will~~may reimburse providers based on the following criteria.

a. ...

b. For all other ambulance service providers identified in Paragraph E.1, reimbursement ~~will~~may be up to 80

percent of the provider's average commercial rate calculated in Paragraph E.7.

F. - F.2. ...

G. The supplemental payment ~~will~~may be made effective for emergency medical transportation provided on or after September 20, 2011. This payment is based on the average amount that would have been paid at the equivalent community rate. After the initial calculation for fiscal year 2011-2012, the department will rebase the equivalent community rate using adjudicated claims data for services from the most recently completed fiscal year. This calculation may be made annually, but shall be made no less than every three years.

H. ...

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 40:1530 (August 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

§331. Enhanced Reimbursements for Qualifying Emergency Ground Ambulance Service Providers

A. Emergency Medical Transportation

1. Qualifying emergency ambulance service providers assessed a fee as outlined in LAC 48:I.4001.E.1.a-b ~~shall~~may

receive enhanced reimbursement for emergency ground ambulance transportation services rendered during the quarter through the Supplemental Payment Program described in the Medicaid State Plan.

2. Effective for dates of service on or after July 1, 2019, qualifying emergency ambulance service providers assessed a fee as outlined in LAC 48:I.4001.E.1.a-d ~~shall~~may receive enhanced reimbursement for non-emergency ground ambulance transportation services rendered during the quarter through the Supplemental Payment Program described in the Medicaid State Plan.

B. - B.4. ...

C. Payment Methodology

1. Payment ~~will~~may include non-emergency ground ambulance services after July 1, 2019. The enhanced reimbursement to each qualifying emergency ground ambulance service provider shall not exceed the sum of the difference between the Medicaid payments otherwise made to these providers for the provision of emergency and non-emergency ground ambulance transportation services and the average amount that would have been paid at the equivalent community rate.

2. - 3.h. ...

D. Effective Date of Payment

1. The enhanced reimbursement payment ~~shall~~may be made effective for emergency ground ambulance transportation services provided on or after August 1, 2016, and for non-emergency ground transportation services provided after July 1, 2019. This payment is based on the average amount that would have been paid at the equivalent community rate.

D.2. - E.1. ...

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 42:1890 (November 2016), amended LR 45:1598 (November 2019), LR 49:

Subchapter C. Aircraft Transportation

§351. Standards for Participation

A. Rotor winged (helicopters) and fixed winged emergency aircraft must be certified by the Department of Health~~and Hospitals~~, Bureau of Health Services Financing in order to receive Medicaid reimbursement. All air ambulance services must be provided in accordance with state laws and regulations governing the administration of these services.

B. ...

C. Prior ~~Authorization. The Prior Authorization Unit of the fiscal intermediary must approve the medical necessity for all air ambulance services~~Approval. Prior approval shall not be

required for emergency air ambulance transportation services, including mileage. Approval shall be done during post payment review and shall not be completed prior to service delivery. Claims for payment of emergency air ambulance transportation services are received and reviewed retrospectively. The clinical documentation for each emergency air ambulance transportation service shall not be required for submission concurrent with the claim. If required, clinical documentation shall be required post claim submission.

1. Air ambulance claims will be reviewed and a determination will be made based on the following requirements. Air ambulance services are covered only if:

a. speedy admission of the ~~patient~~beneficiary is essential and the point of pick-up of the ~~patient~~beneficiary is inaccessible by a land vehicle; or

b. great distance or other obstacles are involved in getting the ~~patient~~beneficiary to the nearest hospital with appropriate services.

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, Office of the Secretary, Bureau of Health Services Financing, LR 35:70 (January 2009), amended by the

Department of Health, Bureau of Health Services Financing, LR
49:

§353. Reimbursement

A. - B. ...

C. If a ~~land-based~~ground ambulance must be used for part of the transport, the ~~land-based~~ground ambulance provider will be reimbursed separately according to the provisions governing emergency ground transportation.

D. - I.2. ...

J. The reimbursement rates for emergency and non-emergency, rotor winged and fixed winged air ambulance transportation services shall be reimbursed based on the Louisiana Medicaid fee schedule. These rates include both in state and out-of-state air ambulance transportation. The agency's fee schedule rate was set as of January 1, 2022 and is effective for services provided on or after that date. All rates are published on the agency's website at:
<https://www.lamedicaid.com>.

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, Office of the Secretary, Bureau of Health Services Financing, LR 35:70 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services

Financing, LR 36:2564 (November 2010), amended LR 37:3029 (October 2011), LR 39:1285 (May 2013), LR 40:1379 (July 2014), LR 42:277 (February 2016), amended by the Department of Health, Bureau of Health Service Financing, LR 49:

\$355. Supplemental Payments for Ambulance Providers

A. Effective for dates of service on or after September 20, 2011, quarterly supplemental payments ~~shall~~may be issued to qualifying ambulance providers for emergency medical air transportation services rendered during the quarter.

B. - E. 7. ...

8. The department ~~will~~may reimburse providers based on the following criteria.

a. ...

b. For all other ambulance service providers identified in E.1, reimbursement ~~will~~may be up to 80 percent of the provider's average commercial rate calculated in Paragraph E.7.

F. - F.2. ...

G. The supplemental payment ~~will~~may be made effective for air ambulance services provided on or after September 20, 2011. This payment is based on the average amount that would have been paid at the equivalent community rate. After the initial calculation for fiscal year 2011-2012, the department will rebase the equivalent community rate using adjudicated claims

data for services from the most recently completed fiscal year. This calculation may be made annually, but shall not be made less often than every three years.

H. ...

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 40:1531 (August 2014), 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 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 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 July 31, 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 July 10, 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 July 27, 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 July 10, 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