

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing and Office of Behavioral Health

Behavioral Health Services Substance Use Disorders Services (LAC 50:XXXIII.Chapters 141-147)

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.Chapters 141-147 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 and the Office of Behavioral Health (OBH) propose to amend the provisions governing substance use disorders (SUD) services rendered to children and adults in order to: 1) reflect the coordinated system of care contractor moving from a non-risk contract to a full-risk capitated contract; 2) remove the requirements for OBH certification of providers and for prior approval of SUD services; 3) clarify the exclusion criteria for institutes for mental disease; and 4) clarify the requirements for residential addiction treatment facilities.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XXXIII. Behavioral Health Services
Subpart 15. Substance Use Disorders Services

Chapter 141. General Provisions

§14101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid ~~s~~State ~~p~~Plan for substance use disorders (SUD) services rendered to children and adults. These services shall be administered under the authority of the Department of Health~~-and-Hospitals~~ (LDH), in collaboration with managed care organizations (MCOs) and the coordinated system of care (CSoC) contractor, which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery. The CSoC contractor shall only manage specialized behavioral health services for children~~+~~ and youth enrolled in the CSoC program.

B. ...

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 38:426 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2357 (November 2015), amended by the

Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

Chapter 143. Services

§14301. General Provisions

A. ...

B. ~~SUD services are subject to prior approval by the MCO or the CSoC contractor~~American Society of Addiction Medicine (ASAM) levels of care require reviews on an ongoing basis, as deemed necessary by the department to document compliance with national standards.

C. ~~American Society of Addiction Medicine (ASAM) levels of care require prior approval and reviews on an ongoing basis, as deemed necessary by the department to document compliance with national standards~~Services provided to children and youth must include communication and coordination with the family and/or legal guardian and custodial agency for children in state custody. Coordination with other child-serving systems should occur as needed to achieve the treatment goals. All coordination must be documented in the child's medical record.

1. The agency or individual who has the decision making authority for a child or adolescent in state custody must approve the provision of services to the recipient.

D. ~~Services provided to children and youth must include communication and coordination with the family and/or legal~~

~~guardian and custodial agency for children in state custody. Coordination with other child-serving systems should occur as needed to achieve the treatment goals. All coordination must be documented in the child's medical record.~~ Children who are in need of SUD services shall be served within the context of the family and not as an isolated unit.

1. ~~The agency or individual who has the decision making authority for a child or adolescent in state custody must approve the provision of services to the recipient.~~ Services shall be:

a. delivered in a culturally and linguistically competent manner; and

b. respectful of the individual receiving services.

2. Services shall be appropriate to individuals of diverse racial, ethnic, religious, sexual, and gender identities, and other cultural and linguistic groups.

3. Services shall also be appropriate for:

a. age;

b. development; and

c. education.

E. ~~Children who are in need of SUD services shall be served within the context of the family and not as an isolated unit.~~ Evidence-based practices require prior approval and

fidelity reviews on an ongoing basis as determined necessary by the department.

~~1. Services shall be:~~

~~a. delivered in a culturally and linguistically competent manner; and~~

~~b. respectful of the individual receiving services.~~

~~2. Services shall be appropriate to individuals of diverse racial, ethnic, religious, sexual, and gender identities, and other cultural and linguistic groups.~~

~~3. Services shall also be appropriate for:~~

~~a. age;~~

~~b. development; and~~

~~c. education.~~

~~F. Evidence based practices require prior approval and fidelity reviews on an ongoing basis as determined necessary by the department.~~
E.1. - F. 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 38:426 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2357 (November 2015), amended by the

Department of Health and Hospitals, Bureau of Health Services
Financing and the Office of Behavioral Health, LR 44:

§14303. Covered Services

A. – A.3. ...

B. Service Exclusions. The following services/components
shall be excluded from Medicaid reimbursement:

1. – 3. ...

4. services rendered in an institute for mental
disease unless provided through Code of Federal Regulations
"allowed in lieu of", or a U.S. Department of Health and Human
Services, Centers for Medicare and Medicaid Services (CMS)
approved waiver; and

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 38:426
(February 2012), amended by the Department of Health and
Hospitals, Bureau of Health Services Financing and the Office of
Behavioral Health, LR 41:2357 (November 2015), amended by the
Department of Health, Bureau of Health Services Financing and
the Office of Behavioral Health, LR 44:

Chapter 145. Provider Participation

§14501. Provider Responsibilities

A. - C. ...

D. Anyone providing SUD services must be ~~certified by the department, or its designee~~licensed in accordance with state laws and regulations, in addition to operating within their scope of practice license. ~~To be certified or recertified, providers~~Providers shall meet the provisions of this Rule, the provider manual and the appropriate statutes.

E. Residential addiction treatment facilities shall be accredited by an approved accrediting body and maintain such accreditation. Denial, loss of or any negative change in accreditation status must be reported to the MCO ~~or CSOC contractor~~ in writing within the time limit established by the department.

F. - F.6. ...

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 38:427 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2357 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

Chapter 147. Reimbursement

§14701. General Provisions

A. For recipients enrolled with the CSoC contractor, ~~reimbursement for services shall be based upon the established Medicaid fee schedule for SUD services~~ the department or its fiscal intermediary shall make monthly capitation payments to the CSoC contractor, exclusive of coverage for residential substance use treatment services.

1. The capitation rates paid to the CSoC contractor shall be actuarially sound rates.

2. The CSoC contractor will determine the rates paid to its contracted providers.

a. No payments shall be less than the minimum Medicaid rate.

B. For recipients enrolled in one of the MCOs, the department or its fiscal intermediary shall make monthly capitation payments to the MCOs inclusive of coverage for the provision of residential substance use services for recipients enrolled in CSoC. ~~The capitation rates paid to the MCOs shall be actuarially sound rates and the MCOs will determine the rates paid to its contracted providers. No payment shall be less than the minimum Medicaid rate.~~

1. The capitation rates paid to the MCOs shall be actuarially sound rates.

2. The MCOs will determine the rates paid to its contracted providers.

a. No payment shall be less than the minimum Medicaid rate.

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 38:427 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 39:3301 (December 2013), LR 41:2358 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, 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 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, December 28, 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