

## **NOTICE OF INTENT**

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

#### **Therapeutic Group Homes (LAC 50:XXXIII.Chapters 121-127)**

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.Chapters 121-127 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 therapeutic group homes (TGH) in order to: 1) reflect the CSoC contractor moving from a non-risk contract to a full-risk capitated contract; 2) remove the requirement for OBH certification of providers; and 3) reflect that TGH are carved out of management by the CSoC contractor to align with current practice and contract requirements.

### **Title 50 PUBLIC HEALTH-MEDICAL ASSISTANCE Part XXXIII. Behavioral Health Services Subpart 13. Therapeutic Group Homes**

#### **Chapter 121. General Provisions**

## **§12101. Introduction**

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid state plan for behavioral health services rendered to children and youth in a therapeutic group home (TGH). 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 for children and youth enrolled in the CSOC program, 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/youth enrolled in the CSOC program.~~

B. - C. ...

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 41:2371 (November 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

## **Chapter 123. Services**

### **§12303. Covered Services**

A. - A.4 ...

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

1. - 3. ...

4. services rendered in an institution for mental disease; ~~and~~

5. - 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 38:428 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2371 (November 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

### **Chapter 125. Provider Participation**

#### **§12501. Provider Responsibilities**

A. Each provider of TGH services shall enter into a contract with one or more of the MCOs ~~and the CSoC contractor for youth enrolled in the CSoC program~~ in order to receive reimbursement for Medicaid covered services. Providers shall

meet the provisions of this Rule, the provider manual, and the appropriate statutes.

B. - C. ...

D. Anyone providing TGH services ~~must~~ shall 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.

E. TGH 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 their contracted MCOs ~~and the CSoC contractor for youth enrolled in the CSoC program~~ in writing within the time limit established by the department.

F. - G.2. ...

H. For TGH facilities that provide care for sexually deviant behaviors, substance ~~abuse~~ use, or dually diagnosed individuals, the facility shall submit documentation to their contracted MCOs ~~and the CSoC contractor for youth enrolled in the CSoC program~~ regarding the appropriateness of the research-based, trauma-informed programming and training, as well as compliance with ASAM level of care being provided.

I. - J. ...

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 38:428 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2371 (November 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

## **Chapter 127. Reimbursement**

### **§12701. General Provisions**

A. ~~For recipients enrolled with the CSoC contractor, reimbursement for services shall be based upon the established Medicaid fee schedule for specialized behavioral health services. For recipients enrolled in one of the MCOs, the~~ The department or its fiscal intermediary shall make monthly capitation payments to the MCOs. 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. - D. ...

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 38:429 (February 2012), amended by the Department of Health and

Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2372 (November 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

**§12705. In-State Therapeutic Group Homes**

A. In-state publicly and privately owned and operated therapeutic group homes shall be reimbursed according to the MCO ~~or CSoC contractor~~ established rate within their contract.

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 38:429 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR:41:2372 (November 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

**§12707. Out-of-State Therapeutic Group Homes**

A. Out-of-state therapeutic group homes shall be reimbursed for their services according to the rate established by the MCO ~~or CSoC contractor~~.

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 38:429 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2372 (November 2015), amended by the Department of Health, Bureau of Health Services Financing, 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 a no impact on family functioning, stability or 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 and no direct or indirect cost to the provider to provide the same level of service. These provisions 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](mailto: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