

NOTICE OF INTENT

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

**Managed Care for Physical and Behavioral Health
Applied Behavior Analysis-Based Therapy Services Integration
(LAC 50:I.3507)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:I.3507 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 amended the provisions governing managed care for physical and behavioral health in order to allow Medicaid recipients enrolled in the LaHIPPP Program to access behavioral health services only through the managed care organizations (MCOs) that participate in the Healthy Louisiana (formerly Bayou Health) Program (*Louisiana Register*, Volume 43, Number 8).

The department has determined that it is necessary to amend the provisions governing managed care for physical and behavioral health in order to include applied behavior analysis-based therapy in the specialized behavioral health

services the MCOs that participate in the Healthy Louisiana Program are required to provide.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Managed Care for Physical and Behavioral Health

Chapter 35. Managed Care Organization Participation

Criteria

§3507. Benefits and Services

A. - C.4. ...

D. The following is a summary listing of the core benefits and services that an MCO is required to provide:

1. - 12. ...

13. basic and specialized behavioral health services, including applied behavior analysis (ABA)-based therapy services, excluding Coordinated System of Care services;

D.14. - F.1. ...

G. Excluded Services

G.1.a. - G.1.e. ...

f. targeted case management services; and

g. all OAAS/OCDD home and community-based

§1915(c) waiver services.

h. . Repealed.

H. - H.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 37:1585 (June 2011), amended LR 39:92 (January 2013), repromulgated LR 39:318 (February 2013), LR 41:936 (May 2015), LR 41:2367 (November 2015), LR 42:755 (May 2016), amended 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 positive impact on family functioning, stability and autonomy as described in R.S. 49:972 as it will ensure continued access to behavioral health services through the MCOs for Medicaid recipients.

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 a positive impact on child, individual or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it reduces the financial burden for families with Medicaid recipients who are in need of behavioral health services through MCOs.

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 November

29, 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

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person

Preparing

Statement: Cedric E Clark

Phone: 342-2339

Dept.: Health

Office: Bureau of Health Services
Financing

Return P.O. Box 91030

Address: Baton Rouge, LA

Rule Title: Managed Care for Physical
and Behavioral Health
Applied Behavior Analysis-Based
Therapy Services Integration

Date Rule Takes Effect: January 20, 2018

SUMMARY

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. The following summary statements, based on the attached worksheets, will be published in the Louisiana Register with the proposed agency rule.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)

It is anticipated that the implementation of this proposed rule will result in estimated state programmatic cost of approximately \$543,270 for FY 17-18, \$5,052,848 for FY 18-19 and \$6,914,957 FY 19-20. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 17-18 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 63.34 percent in FY 17-18, and 64.23 in FY 18-19 and FY 19-20.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$938,178 for FY 17-18, \$9,073,091 for FY 18-19 and \$12,416,764 for FY 19-20. It is anticipated that the implementation of this proposed rule will increase premium tax revenue collections, which are classified as statutory dedications, by approximately \$0 for FY 17-18, \$4,249,262 for FY 18-19 and \$6,937,794 for FY 19-20. Note that by FY 19-20, premium tax collections will offset the increased state general fund required as a result of this rule change. It is anticipated that \$270 will be expended in FY 17-18 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 63.34 percent in FY 17-18, and 64.23 in FY 18-19 and FY 19-20.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing managed care for physical and behavioral health in order to include applied behavior analysis (ABA)-based therapy as a covered service the managed care organizations (MCOs) that participate in the Healthy Louisiana Program are required to provide. This proposed Rule may be beneficial to recipients as it will allow access to ABA services through the MCOs. There is no anticipated impact to providers. It is anticipated that implementation of this proposed rule will increase Medicaid programmatic expenditures for managed care services by approximately \$1,481,178 for FY 17-18, \$14,125,939 for FY 18-19 and \$19,331,721 for FY 19-20 due to the addition of the managed care administrative load that includes premium tax, profit and

administrative expenses. Though interminable at this time, it is also anticipated that the MCOs will be able to curb growth in this program resulting in lower expenditures than if the services remained in the fee-for-service model.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition.



Signature of Agency Head
or Designee



Legislative Fiscal Officer
or Designee

Jen Steele, Medicaid Director

Typed name and Title of
Agency Head or Designee

10/9/2017

Date of Signature



LDH/BHSF Budget Head

10/09/17

Date of Signature

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberations on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

This proposed Rule amends the provisions governing managed care for physical and behavioral health in order to include applied behavior analysis (ABA)-based therapy in the specialized behavioral health services the managed care organizations (MCOs) that participate in the Healthy Louisiana Program are required to provide.

- B. Summarize the circumstances that require this action. If the action is required by federal regulations, attach a copy of the applicable regulation.

The Department of Health, Bureau of Health Services Financing amended the provisions governing managed care for physical and behavioral health in order to allow Medicaid recipients enrolled in the LaHIPP Program to access behavioral health services only through the managed care organizations (MCOs) that participate in the Healthy Louisiana (formerly Bayou Health) Program (Louisiana Register, Volume 43, Number 8).

The department has determined that it is necessary to amend the provisions governing managed care for physical and behavioral health in order to include applied behavior analysis-based therapy in the behavioral health services the MCOs that participate in the Healthy Louisiana Program are required to provide.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session.

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

Yes, this proposed rule will result in an increase in programmatic expenditures by approximately \$1,481,718 for FY 17-18, \$14,125,939 for FY 18-19 and \$19,331,721 for FY 19-20. In FY 18-19, \$540 is included for the state's administrative expense for promulgation of this proposed rule and the final rule.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

- (a) X If yes, attach documentation.
(b) If no, provide justification as to why this rule change should be published at this time.

HCR 8 of the 2017 Regular Session of the Louisiana Legislature directs the department to implement this increase.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

I. A. COST OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase or (decrease) in cost to implement the proposed action?

COST	FY 17-18	FY 18-19	FY 19-20
PERSONAL SERVICES			
OPERATING EXPENSES	\$540	\$0	\$0
PROFESSIONAL SERVICES			
OTHER CHARGES	\$1,481,178	\$14,125,939	\$19,331,721
REPAIR & CONSTR.			
POSITIONS (#)			
TOTAL	\$1,481,718	\$14,125,939	\$19,331,721

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

The expenses reflected above are the estimated increases in programmatic expenditures in the Medicaid program. In FY 17-18, \$540 is included for the state's administrative expense for promulgation of this proposed rule and the final rule.

3. Sources of funding for implementing the proposed rule or rule change.

Source	FY 17-18	FY 18-19	FY 19-20
STATE GENERAL FUND	\$543,270	\$5,052,848	\$6,914,957
SELF-GENERATED			
FEDERAL FUND	\$938,448	\$9,073,091	\$12,416,764
OTHER (Specify)			
Total	\$1,481,718	\$14,125,939	\$19,331,721

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

Yes, sufficient funds are available to implement this rule.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THIS PROPOSED ACTION.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustment in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

This proposed rule has no known impact on local governmental units.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

2. Indicate the sources of funding of the local governmental unit that will be affected by these costs or savings.

There is no known impact on the sources of local governmental unit funding.

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

- A. What increase or (decrease) in revenues can be expected from the proposed action?

REVENUE INCREASE/DECREASE	FY 17-18	FY 18-19	FY 19-20
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
RESTRICTED FUNDS*			
FEDERAL FUNDS	\$938,448	\$9,073,091	\$12,416,764
LOCAL FUNDS			
Total	\$938,448	\$9,073,091	\$12,416,764

**Specify the particular fund being impacted*

- B. Provide a narrative explanation of each increase or decrease in revenue shown in "A". Describe all data, assumptions, and methods used in calculating these increases or decreases.

The amounts reflected above are the estimated increases in the federal share of programmatic expenditures for the Medicaid Program. In FY 17-18, \$270 is included for the federal expense for promulgation of this proposed rule and the final rule.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effects on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.)

This proposed Rule amends the provisions governing managed care for physical and behavioral health in order to include applied behavior analysis (ABA)-based therapy as a covered service the managed care organizations (MCOs) that participate in the Healthy Louisiana Program are required to provide. This proposed Rule may be beneficial to recipients as it will allow access to ABA services through the MCOs.

- B. Also, provide an estimate of any revenue impact resulting from this rule or rule change to these groups.

There is no anticipated impact to providers. It is anticipated that implementation of this proposed rule will increase Medicaid programmatic expenditures for managed care services by approximately \$1,481,178 for FY 17-18, \$14,125,939 for FY 18-19 and \$19,331,721 for FY 19-20 due to the addition of the managed care administrative load that includes premium tax, profit and administrative expenses. Though interminable at this time, it is also anticipated that the MCOs will be able to curb growth in this program resulting in lower expenditures than if the services remained in the fee-for-service model.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

It is anticipated that the implementation of this proposed rule will not have an effect on competition.