

NOTICE OF INTENT

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

**Behavioral Health Services
Treatment for Opioid Use Disorder in Opioid Treatment Programs
(LAC 50:XXXIII.Chapters 151-157)**

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to adopt LAC 50:XXXIII.Chapters 151-157 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.

Section 1006(b) of the Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act amended Section 1902(a)(10)(A) of the Social Security Act to add medication-assisted treatment as a mandatory Medicaid benefit, defined as all drugs approved by the Food and Drug Administration (FDA), including methadone.

The Department of Health, Bureau of Health Service Financing and the Office of Behavioral Health propose to adopt provisions governing medication-assisted opioid use disorder (OUD) treatment in Opioid Treatment Programs, for Medicaid-eligible recipients ages 18 and over, diagnosed with OUD.

TITLE 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XXXIII. Behavioral Health Services

Subpart 16. Coverage for Treatment for Opioid Use Disorder in Opioid Treatment Programs

Chapter 151. General Provisions

§15101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage for medication-assisted treatment provided in Opioid Treatment Programs, including but not limited to, methadone treatment, to all Medicaid-eligible adults and children with opioid use disorder (OUD).

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 and the Office of Behavioral Health, LR 46:

§15103. Recipient Qualifications

A. Adults and children who meet Medicaid eligibility and clinical criteria shall qualify to receive medically necessary OUD services in Opioid Treatment Programs.

B. Qualifying recipients must meet the following criteria:

1. are at least 18 years old, unless the recipient has consent from a parent or legal guardian, if applicable; and

2. meet the federal requirements regarding admission to the Opioid Treatment 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, Bureau of Health Services Financing and the Office of Behavioral Health, LR 46:

Chapter 153. Services

§15301. General Provisions

A. All treatment services must be medically necessary.

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 and the Office of Behavioral Health, LR 46:

§15303. Covered Services

A. The following services provided by Opioid Treatment Programs shall be reimbursed under the Medicaid Program:

1. the administration and dispensing of medications;
and

2. treatment phases outlined in LAC 48:I.5725.

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 and the Office of Behavioral Health, LR 46:

Chapter 155. Provider Participation

§15501. Provider Responsibilities

A. Each Opioid Treatment Program shall enter into a contract with the managed care organizations (MCOs) and the coordinated system of care (CSoC) contractor in order to receive reimbursement for Medicaid covered services.

B. Opioid treatment programs shall deliver all services in accordance with federal and state laws and regulations, and the provisions of this Rule.

C. Opioid Treatment Programs must be licensed in accordance with state laws and regulations, in addition to operating within their scope of practice license.

D. Opioid Treatment Programs shall retain all records necessary to fully disclose the extent of services provided to recipients for five years from the date of service and furnish such records, and any payments claimed for services, to the Medicaid program upon request.

E. Opioid Treatment Programs shall maintain compliance with state and federal regulatory authorities for operation, including but not limited to the Substance Abuse and Mental Health Services Administration (SAMHSA), the Drug Enforcement Administration (DEA), and the State Opioid Treatment Authority.

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 and the Office of Behavioral Health, LR 46:

Chapter 157. Reimbursement

§15701. Reimbursement Methodology

A. Reimbursement rates for Opioid Treatment Programs shall be a bundled rate included in the Specialized Behavioral Health Fee Schedule as determined by the department.

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 and the Office of Behavioral Health, LR 46:

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 a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 as it increases access to medication-assisted opioid use disorder treatment services for eligible recipients in need of these services.

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 a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973-972 as it provides Medicaid reimbursement for medication-assisted opioid use disorder treatment services that were previously cash-based only for recipients in need of these services.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, 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, as described in R.S. 49:965.2 et seq.

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, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since it provides Medicaid reimbursement for the provision of medication-assisted opioid use disorder treatment services to eligible recipients.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on November 29, 2019.

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 November 12, 2019. 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 November 27, 2019 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 November 12, 2019. 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.

Rebekah E. Gee MD, MPH

Secretary