

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing
and
Office for Citizens with Developmental Disabilities**

**Home and Community-Based Services Waivers
Children's Choice Waiver
Allocation of Waiver Opportunities
(LAC 50:XXI.Chapters 111-117, 11901, 11905, 12301)**

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.Chapters 111-117, §11901, §11905, and §12301 under 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 and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amended the provisions governing the Children Choice Waiver to clarify the provisions of the waiver in order to ensure compliance with federal regulations, and to remove applied behavior analysis (ABA) as a covered service because ABA services are now covered under the Medicaid State Plan (*Louisiana Register*, Volume 41, Number 1).

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities has now

determined that it is necessary to amend the provisions governing the Children Choice Waiver in order to: 1) implement a tiered waiver allocation process which establishes one Request for Services Registry for all OCDD waivers and is centered on needs-based assessments; and 2) increase the age of the participant to 21.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community-Based Services Waivers

Subpart 9. Children's Choice

Chapter 111. General Provisions

§11101. Introduction

A. The ~~e~~Children's ~~e~~Choice (CC) ~~w~~Waiver is a home and community-based services (HCBS) program that offers supplemental support to ~~children~~ individuals with intellectual/developmental disabilities (IDD) who currently live ~~at home with their families,~~ in the community or who will leave an institution to return ~~home~~ to the community.

B. The ~~e~~Children's ~~e~~Choice ~~w~~Waiver is an option offered to ~~children~~ individuals who have been determined eligible for developmental disability services and are on the intellectual/developmental disabilities request for services registry (IDDRFSR) hereafter referred to as "the registry" or as identified in §11105 or §11107. ~~Families may choose to accept a children's choice waiver offer or remain on the DDRFSR.~~

C. Children's eChoice ~~w~~Waiwer participants are eligible for all medically necessary Medicaid services in addition to eChildren's eChoice ~~w~~Waiwer services.

D. The number of participants in the eChildren's eChoice ~~w~~Waiwer is contingent upon available funding.

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 26:2793 (December 2000), repromulgated for LAC, LR 28:1983 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1891 (September 2009), LR 39:2497 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§11103. Participant Qualifications and Admissions Criteria

A. The eChildren's eChoice ~~w~~Waiwer is available to ~~children~~ individuals who:

1. are from birth through age ~~18~~20;
2. ...
3. are on the ~~DDRFSP~~-registry unless otherwise specified in §11105 and §11107;

4. ...

5. meet the requirements for an intermediate care facility for persons with intellectual/developmental disabilities (ICF/~~DD~~ID) level of care, which requires active treatment of a developmental disability under the supervision of a qualified developmental disability professional;

A.6. - B. ...

C. Participants who are currently receiving Children's Choice Waiver services who reach their ~~nineteenth~~eighteenth birthday ~~while participating in the children's choice waiver will transfer into an~~ and remain enrolled in school may continue receiving Children's Choice Waiver services until their twenty-first birthday at which time they will transition to the most appropriate OCDD adult waiver ~~for adults~~ as long as they remain eligible for waiver services.

D. Participants who are currently receiving Children's Choice Waiver services and reach their eighteenth birthday and choose to no longer attend school may transition to a Supports Waiver anytime between their eighteenth birthday and their twenty-first birthday based on a person centered planning process.

1. Participants who transition to a Supports Waiver will continue receiving Supports Waiver services after their twenty-first birthday as long as they remain eligible for waiver services.

2. Children's Choice Waiver recipients who reach their

twenty-first birthday will transfer into the most appropriate OCDD adult waiver as long as they remain eligible for waiver 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, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1892 (September 2009), amended LR 39:2498 (September 2013), amended by the Department of Health, Bureaus of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§11104. Admission Denial or Discharge Criteria

A. Individuals shall be denied admission to or discharged from the Children's Choice Waiver if one of the following criteria is met:

1. ...
2. the individual does not meet the requirements for

ICF/~~DD~~-ID level of care;

3. - 4. ...

5. the participant is admitted to an ICF/~~DD~~-ID or nursing facility with the intent to stay and not to return to waiver services:

- a. ...
- b. The participant will be discharged from the

waiver on the ninety-first day if the participant is still in the

ICF/~~DD~~ID or nursing facility.

6. - 7. ...

~~8. continuity of services is interrupted as a result of the participant not receiving a children's choice service during a period of 30 or more consecutive days:~~

~~_____ a. This does not include interruptions in children's choice services because of hospitalization, institutionalization (such as ICFs/DD or nursing facilities), or non-routine lapses in services where the family agrees to provide all needed or paid natural supports.~~

~~_____ b. There must be documentation from the treating physician that this interruption will not exceed 90 days.~~

~~_____ c. During this 90-day period, the Office for Citizens with Developmental Disabilities (OCDD) will not authorize payment for children's choice services.~~8. - 8.c. Repealed.

B. Recipients of the Children's Choice Waiver who reach their ~~nineteenth~~twenty-first birthday ~~while participating in the children's choice waiver~~ will transfer ~~into an~~to the most appropriate OCDD adult waiver ~~for adults~~ as long as they remain eligible for waiver 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, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2498 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§11105. Money Follows the Person Rebalancing Demonstration

A. The Money Follows the Person (MFP) Rebalancing Demonstration is a federal demonstration program awarded by the Centers for Medicare & Medicaid Services to the ~~D~~department. The demonstration is a transition program that targets individuals using qualified institutional services and moves them to home and community-based long-term care services. The MFP rebalancing demonstration will stop allocation of opportunities when the demonstration expires.

1. ...

B. ~~Children~~Individuals must meet the following criteria for participation in the MFP Rebalancing Demonstration.

1. ~~Children~~Individuals with a developmental disability must:

a. be from birth through ~~18~~20 years of age;

1.b. - 2. ...

C. ~~Children~~Individuals who participate in the demonstration are not required to have a protected request date on the

~~DDRFSR~~registry. ~~Children who are under the age of three years old and are not on the DDRFSR will be added to the DDRFSR at the age of three, or older, with a protected date that is the date of their approval to participate.~~

D. - E. ...

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 and the Office for Citizens with Developmental Disabilities, LR 35:1892 (September 2009), amended by Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§11107. Allocation of Waiver Opportunities

A. The ~~order of entry in the children's choice waiver is first come, first served from a statewide list arranged by date of application for the~~ intellectual/developmental disabilities (I/DD) request for services registry, ~~for the new opportunities waiver (NOW)~~ hereafter referred to as "the registry," shall be used to identify individuals with intellectual and/or developmental disabilities who are waiting for an OCDD waiver opportunity. ~~Families shall be given a choice of accepting an opportunity in the children's choice waiver or remaining on the DDRFSR for the NOW.~~

~~1. The only exceptions to the first come, first served allocation of waiver opportunities shall be for the:~~

~~a. money follows the person rebalancing demonstration waiver opportunities which are allocated to demonstration participants only; and~~

~~b. waiver opportunities which are allocated to children who have been determined to need more services than what is currently available through state funded family support services.~~

1.b. Repealed.

B. ~~An additional 20 children's choice waiver opportunities shall be created for the Money Follows the Person Rebalancing Demonstration Program and must only be filled by a demonstration participant. No alternate may utilize an MFP rebalancing demonstration opportunity~~Individuals who are found eligible for developmental disabilities services according to the OCDD System Entry Policy, and who request waiver services will be added to the registry. The Request for Services Registry is arranged by the urgency of need and date of application for Developmentally Disabled (DD) waiver services.

~~1. The MFP rebalancing demonstration will stop allocation of opportunities on September 30, 2016.~~

~~a. In the event that an MFP rebalancing demonstration opportunity is vacated or closed before September 30,~~

~~2016, the opportunity will be returned to the MFP rebalancing demonstration pool and an offer will be made based upon the approved program guidelines.~~

~~_____ b. In the event that an MFP rebalancing demonstration opportunity is vacated or closed after September 30, 2016, the opportunity will cease to exist.~~1. - 1.b. Repealed.

C. ~~Four hundred twenty-five~~ Children's Choice Waiver opportunities shall be ~~designated for qualifying children with developmental disabilities that have been identified by the local governing entity (LGE) as needing more family support services than what is currently available through state funded family support services.~~ offered to individuals under the age of 21 who are on the registry, have the highest level of need and the earliest registry date. These individuals shall be notified in writing when a funded Children's Choice waiver opportunity is available and that he/she is next in line for a Children's Choice waiver slot except for allocations to the specific targeted groups cited as follows:

1. ~~To qualify for these~~ Money follows the person rebalancing demonstration waiver opportunities, ~~children must~~ which are allocated to demonstration participants only. The MFP rebalancing demonstration will stop allocation of opportunities when the demonstration expires. An additional 20 children's choice waiver opportunities shall be created for the MFP Rebalancing Demonstration

Program and must only be filled by a demonstration participant. No alternate may utilize an MFP rebalancing demonstration opportunity.

a. ~~be under 18 years of age;~~ In the event that an MFP rebalancing demonstration opportunity is vacated or closed, the opportunity will be returned to the MFP rebalancing demonstration pool and an offer will be made based upon the approved program guidelines until such time as the demonstration expires.

~~b. be designated by the LGE as meeting priority level 1 or 2 criteria;~~

~~c. be Medicaid-eligible;~~

~~d. be eligible for state developmental disability services; and~~

~~e. meet the ICF/DD level of care.~~

~~2. Each LGE shall be responsible for the prioritization of these opportunities. Priority levels shall be defined according to the following criteria.~~

~~a. Priority Level 1. Without the requested supports, there is an immediate or potential threat of out-of-home placement or homelessness due to:~~

~~i. the individual's medical care needs;~~

~~ii. documented abuse or neglect of the individual;~~

~~iii. the individual's intense or frequent~~

~~challenging behavioral needs;~~

~~iv. death or inability of the caregiver to continue care due to his/her own age or health; or~~

~~v. the possibility that the individual may experience a health crisis leading to death, hospitalization or placement in a nursing facility.~~

~~b. Priority Level 2. Supports are needed to prevent the individual's health from deteriorating or the individual from losing any of his/her independence or productivity.~~

~~3. Children who qualify for one of these waiver opportunities are not required to have a protected request date on the developmental disabilities request for services registry.~~

~~4. Each LGE shall have a specific number of these opportunities designated to them for allocation to waiver participants.~~

~~5. In the event one of these opportunities is vacated, the opportunity shall be returned to the allocated pool for that particular LGE for another opportunity to be offered.~~

~~6. Once all of these opportunities are filled, supports and services, based on the priority determination system, will be identified and addressed through other resources currently available for individuals with developmental disabilities.~~ 1.b. - 6. Repealed.

D. The Office for Citizens with Developmental Disabilities

(OCDD) has the responsibility to monitor the utilization of eChildren's eChoice wWaiver opportunities. At the discretion of the OCDD, specifically allocated waiver opportunities may be reallocated to better meet the needs of individuals with developmental disabilities.

E. Funded opportunities will only be allocated to individuals who successfully complete the financial eligibility and medical certification process required for waiver certification.

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 and the Office for Citizens with Developmental Disabilities, LR 35:1892 (September 2009), amended LR 40:539, 540 (March 2014), LR 41:125 (January 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

Chapter 113. Service

§11303. Service Definitions

A. The services in this §11303 are included in the service package for the eChildren's eChoice wWaiver. All services must be included on the approved plan of care which prior authorizes all services.

A.1. - N.4.a. ...

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, Office for Citizens with Developmental Disabilities, LR 33:1871 (September 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, amended LR 36:324 (February 2010), LR 39:2498 (September 2013), LR 40:67 (January 2014), LR 41:126 (January 2015), amended by Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

Chapter 115. Provider Participation Requirements

Subchapter B. Provider Requirements

§11521. General Requirements for Medicaid Enrollment

A. ...

1. The provider must meet all the requirements for licensure as established by state laws and rules promulgated by the Department of Health ~~and Hospitals~~ (~~DHH~~LDH) or have a current, valid license or certification from the appropriate governing board for that profession.

2. - 3. ...

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 27: 310 (March 2001), repromulgated for LAC, LR 28:1984 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2501 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§11523. Enrollment

A. ...

B. Providers shall attend all mandated meetings and training sessions as directed by OCDD as a condition of enrollment and continued participation as waiver providers. Attendance at a provider enrollment orientation shall be required prior to enrollment as a Medicaid provider of services. The frequency of the provider enrollment orientations shall be determined by ~~the DHH~~ LDH Health Standards Section.

C. A separate provider enrollment packet must be completed for each site in each ~~DHH~~ LDH administrative region where the agency will provide services.

D. Participant case records and billing records shall be housed at the site in ~~the DHH~~ LDH administrative region where the

participant resides.

E. - F. ...

G. Providers shall participate in initial training for prior authorization and data collection. This initial training and any ~~DHH~~ LDH scheduled subsequent training addressing program changes is to be provided at no cost to the agency. Repeat training must be paid for by the requesting agency.

H. Providers shall develop a Quality Improvement Plan which must be submitted for approval within 60 days after ~~the DHH~~ LDH training. Self-assessments are due six months after approval of the plan and yearly thereafter.

I. - N. ...

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 Community Supports and Services, LR 27:310 (March 2001), repromulgated for LAC by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1984 (September 2002), amended LR 28:2533 (December 2002), repromulgated LR 29:38 (January 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2501 (September 2013), amended by the Department

of Health, Bureau of Health Services Financing and the Office for
Citizens with Developmental Disabilities, LR 43:

§11525. Case Management Providers

A. ...

1. Providers of case management services for the
Children's Choice Program must have a contract with ~~DHH~~LDH to
provide services to waiver participants.

2. ...

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 27:310 (March 2001), repromulgated for LAC, LR 28:1985
(September 2002), amended by the Department of Health, Bureau of
Health Services Financing and the Office for Citizens with
Developmental Disabilities, LR 43:

§11527. Direct Service Providers

A. ...

1. The provider must be licensed by ~~the DHH~~LDH as a home
and community-based services provider and meet the module specific
requirements for the services being provided.

2. Direct service providers must provide, at a minimum,
family support services~~and~~, crisis support services and subcontract

services for center-based respite, family training, environmental adaptations and specialized medical equipment and supplies.

3. The following services may either be provided directly by the direct service provider or by written agreement (subcontract) with other agents-; and ~~T~~the actual provider of the service, whether it is the direct service provider or a subcontracted agent, shall meet the following licensure or other qualifications:

a. Center-based respite must be provided by a facility licensed by ~~DHH~~ LDH and meet all module specific requirements for the service.

3.b. - 5. ...

6. Agencies must provide services consistent with the personal outcomes identified by the ~~child~~ participant and his/her family.

7. All personnel who are at a supervisory level must have a minimum of one year verifiable work experience in planning and providing direct services to people with ~~mental-retardation or~~ other intellectual/developmental disabilities.

8. - 12. ...

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 27: 310 (March 2001), repromulgated for LAC, LR 28:1985 (September 2002), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:1872 (September 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2501 (September 2013), LR 41:127 (January 2015), repromulgated LR 41:538 (March 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

Chapter 117. Crisis Provisions

§11701. Participation in Children's Choice

A. ~~Families must choose to either accept e~~Children's ~~e~~Choice ~~services~~ Waiver participants ~~or remain on the DDRFSR. This is an individual decision based on a family's current circumstances. In the event that a family chooses children's choice for their child and later~~ who experiences a crisis that increases the need for paid supports to a level that cannot be accommodated within the service cap specified in §11301.A on waiver expenditures, ~~they~~ may request consideration for a crisis designation. A crisis is defined as a catastrophic change in circumstances rendering the natural and community support system unable to provide for the health and welfare of the ~~child~~ participant at the level of benefits offered under

eChildren's eChoice. The procedure in this Chapter has been developed to address these situations.

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 27:1015 (July 2001), repromulgated for LAC, LR 28:1986 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2502 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§11703. Crisis Designation Criteria

A. In order to be considered a crisis, one of the following circumstances must exist:

1. - 2. ...

3. the ~~child~~ participant is committed to the custody of ~~the Department of Health and Hospitals (DHH)~~ LDH by the court; or

4. ...

5. the ~~child's~~ participant's condition deteriorates to the point when the plan of care is inadequate.

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, Office of the Secretary, Bureau of Health Services Financing, LR 27:1015 (July 2001), repromulgated for LAC, LR 28:1986 (September 2002), amended LR 29:704 (May 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2503 (September 2013), LR 41:128 (January 2015, amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§11705. Crisis Extension Provisions

A. Additional services (crisis support) outside of the waiver cap amount shall be approved by the OCDD state office. Crisis designation is time limited, depending on the anticipated duration of the causative event. Each request for crisis designation may be approved for a maximum of three months ~~or the annual plan of care date, not to exceed 12 months.~~

B. ~~When the crisis designation is extended at the end of the initial duration (or at any time thereafter), the family may request the option of returning the child's name to the original application date on the DDRFSR when it is determined that the loss of the caregiver and lack of natural or community supports will be long term~~

~~or permanent. This final determination will be made by OCDD.
Eligibility and services through children's choice shall continue as
long as the child meets eligibility criteria. 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, Office of the Secretary, Bureau of Health Services Financing, LR 27:1015 (July 2001), repromulgated for LAC, LR 28:1986 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2503 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

Chapter 119. Noncrisis Provisions

§11901. General Provisions

~~A. Restoring the participant to the DDRFSR under noncrisis provisions will allow that individual to be placed in the next available waiver opportunity (slot) that will provide the appropriate services, provided the participant is still eligible when a slot becomes available. The fact that the participant is being restored to the DDRFSR does not require that the department immediately offer him/her a waiver slot if all slots are filled or to make a slot available to this participant for which another participant is being~~

~~evaluated, even though that other participant was originally placed on the DDRFSR on a later date. Waiver services will not be terminated as a result of a participant's name being restored to the registry.~~

~~—— B. — If another developmental disabilities waiver would provide the participant with the services at issue, the department may place the participant in any waiver that would provide the appropriate services.~~

~~—— C. — In the event that the waiver eligibility, other than for the developmental disabilities waiver, of a person who elected or whose legal representative elected that he/she receive services under the children's choice waiver is terminated based on inability to assure health and welfare of the waiver participant, the department will restore him/her to the DDRFSR for the developmental disabilities waiver in the date order of the original request.~~

~~—— D. — If and when a new adult waiver is adopted, a children's choice participant aging out of that program will be evaluated for both the capped waiver and the developmental disabilities waiver, and transferred to the waiver which services are most appropriate for him/her at that time, with a right of appeal of the department's decision.~~ 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, Office of the Secretary, Bureau of Health Services Financing, LR 28:1465 (June 2002), repromulgated for LAC, LR 28:1986 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2503 (September 2013), LR 41:128 (January 2015), repealed by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§11903. Good Cause

~~A. A person who has elected or whose legal representative has elected that they receive services under children's choice waiver shall be allowed to restore his or her name to the DDRFSR for the developmental disabilities waiver in original date order, when they meet all of the following criteria:~~

~~1. he/she would benefit from the services that are available in the developmental disabilities waiver, but are not actually available to him or her through his/her current waiver or through Medicaid State Plan services; and~~

~~2. he/she would qualify for those services under the standards utilized for approving and denying the services to the developmental disabilities waiver participants; and~~

~~3. there has been a change in circumstances since his or her enrollment in the children's choice waiver that causes these~~

~~other services to be appropriate. The change does not have to be a change in the participant's medical condition, but can include loss of in-home assistance through a caretaker's decision to take on or increase employment, or to obtain education or training for employment. (Note: The temporary absence of a caretaker due to a vacation is not considered good cause.); and~~

~~4. the person's original request date for the developmental disabilities waiver has been passed on to the~~
~~DDRFSR.~~ 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, Office of the Secretary, Bureau of Health Services Financing, LR 28:1465 (June 2002), repromulgated for LAC, LR 28:1986 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2503 (September 2013), repealed by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§11905. Determination Responsibilities and Appeals

A. The LGE shall have the responsibility for making the determinations as to the matters set forth in this Chapter 119. Persons who have elected or whose legal representatives have elected

that they receive services under the eChildren's eChoice ~~w~~Waiver have the right to appeal any determination of the department as to matters set forth in this Chapter 119, under the regulations and procedures applicable to Medicaid fair hearings.

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 for Citizens with Developmental Disabilities, Bureau of Health Services Financing, LR 28:1987 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2504 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

Chapter 123. Self-Direction Initiative

§12301. Self-Direction Service Delivery Option

A. ...

B. Participant Responsibilities. Waiver participants choosing the self-directed service delivery option must understand the rights, risks and responsibilities of managing their own care and individual budget. If the participant is under 18 years of age or is unable to make decisions independently, ~~he/she~~ the participant must have an authorized representative who understands the rights, risks and

responsibilities of managing his/her care and supports within ~~his/her~~
the participant's individual budget. The employer must be at least 18
years of age. Responsibilities of the participant or authorized
representative include:

1. completion of mandatory trainings, including the
rights and responsibilities of managing ~~his/her own~~ services, and
supports and individual budgets;

2. ...

- a. ~~adhere~~ adhering to the health and welfare
safeguards identified by the team, including the application of a
comprehensive monitoring strategy and risk assessment and management
systems;

3. participation in the development and management of the
approved budget:

- a. this annual budget is determined by the
recommended service hours listed in the participant's plan of care to
meet his/her needs; and

- b. the participant's individual budget includes a
potential amount of dollars within which the participant or his/her
authorized representative exercises decision-making responsibility
concerning the selection of services and service providers; ~~and~~

- c. ~~an administrative fee will be deducted from the~~
~~participant's approved budget;~~ Repealed.

4. all services rendered shall be prior approved and in accordance with the plan of care; and

5. all services must be documented in service notes, which describes the services rendered and progress towards the participant's personal outcomes and ~~his/her~~ plan of care.

C. ...

1. Voluntary termination. The waiver participant may choose at any time to withdraw from the self-direction service delivery option and return to the traditional provider agency management of services.

2. - 2.d.iv. ...

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 and the Office for Citizens with Developmental Disabilities, LR 39:2504 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

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 the tiered waiver process will allow families with the highest urgency of need and earliest registry dates to access services more quickly.

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 the tiered waiver process will allow families with the highest urgency of need and earliest registry dates to access services more quickly.

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, October 26, 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