

## **NOTICE OF INTENT**

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

#### **Managed Care for Physical and Behavioral Health Reimbursement Methodology Kick and Lump Sum Payments (LAC 50:I.3509)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:I.3509 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 currently provides a one-time supplemental lump sum payment, hereafter referred to as a "kick payment", to managed care organizations (MCOs) participating in the Healthy Louisiana Program to cover the cost of prenatal care, deliveries and postpartum care for MCO members. The department has now determined that it is necessary to amend the provisions governing MCO reimbursement to allow for expansion of the current kick payment methodology to include reimbursements for specific care events, services, and treatments in addition to obstetrical deliveries and for reimbursement of the MCO monthly capitation and kick payments in the aggregate on a lump sum basis when administratively necessary.

## 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

#### §3509. Reimbursement Methodology

##### A. ...

1. The department will establish monthly capitation rates within an actuarially sound rate range certified by its actuaries. Consistent with all applicable federal rules and regulations, the rate range will initially be developed using fee-for-service claims data, Bayou Health shared savings claims data, Bayou Health managed care organization encounter data, Louisiana Behavioral Health Partnership (LBHP) encounter data, financial data reported by Bayou Health ~~plans~~ managed care organizations and the LBHP statewide management organization, supplemental ad hoc data, and actuarial analyses with appropriate adjustments.

2. As the Bayou Health managed care ~~Program~~ program matures and fee-for-service, shared savings and LBHP data are no longer available, there will be increasing reliance on Bayou Health managed care organization encounter data and/or financial data to set future rates, subject to comparable adjustments.

3. - 4.d. ...

5. ~~An MCO shall be reimbursed a one-time~~

~~supplemental lump sum payment, hereafter referred to as a~~  
~~"maternity kick payment", for each obstetrical delivery in the~~  
~~amount determined by the department's actuary.~~Kick Payments.  
MCOs may be reimbursed a one-time supplemental lump sum payment,  
hereafter referred to as a "kick payment", for the provision of  
certain services that meet specific conditions, in an amount  
determined by the department's actuaries.

a. The ~~maternity~~-kick payment is intended to cover the cost of ~~prenatal care, the delivery event, and postpartum~~ a specific care event or treatment. Payment will be ~~paid~~ made to the MCO upon submission of satisfactory evidence of the ~~occurrence of a delivery~~ event or treatment.

b. Only one ~~maternity~~-kick payment will be made per ~~delivery~~ event or treatment.

c. ~~The maternity kick payment will be paid for both live and still births. A maternity kick payment will not be reimbursed for spontaneous or induced abortions.~~Repealed.

6. ...

7. The department, or its fiscal intermediary, may reimburse an MCO's monthly capitation payments or kick payments in the aggregate on a lump sum basis when administratively necessary.

B. - M.1. ...

2. If three attempts to contract with the provider

prior to the delivery of the medically necessary service have not been documented, the ~~CNN~~PMCO shall reimburse the provider the published Medicaid fee-for-service rate in effect on the date of service.

M.3. - N.2.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, Bureau of Health Services Financing, LR 37:1587 (June 2011), amended LR 39:92 (January 2013), LR 41:937 (May 2015), LR 41:2367 (November 2015), LR 42:755 (May 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

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 no impact on family functioning, stability and autonomy as described in R.S. 49:972.

### **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 no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

### **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, 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.

### **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 October 30, 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 October 10, 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 October 30, 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 October 10, 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