

**NOTICE OF INTENT**

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

**Home and Community-Based Services Waivers  
Residential Options Waiver  
(LAC 50:XXI.Chapters 161, 163 and §16901)**

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:Chapters 161, 163 and §16901 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 for Citizens with Developmental Disabilities (OCDD) propose to amend the provisions governing the Residential Options Waiver (ROW) in order to restore the minimum age for access to the ROW and delete the grandfather clause for participants under age 21, add the monitored in-home caregiving service, change units for specific services to a 15 minute rate and clarify and align provisions of the ROW with other OCDD home and community-based services waivers.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part XXI. Home and Community Based Services Waivers**  
**Subpart 13. Residential Options Waiver**

**Chapter 161. General Provisions**

**§16101. Introduction**

A. ...

B. The goal of the Residential Options Waiver is to promote independence through strengthening the individual's capacity for self-care, self-sufficiency and community integration utilizing a wide array of services, supports and residential options, which best meets the individual's needs and preferences, while supporting the dignity, quality of life, and security in the everyday life of the individual as he/she is a member of his/her community.

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, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2154 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

**§16103. Program Description**

A. The ROW is designed to utilize the principles of self-determination and to supplement the family and/or community supports that are available to maintain the individual in the community and are designed to allow an individual experience that mirrors the experiences of individuals without disabilities. These services are not to be restrictive, but liberating, by empowering individuals to experience life in the most fulfilling manner as defined by the individual while still assuring health and safety. In keeping with the principles of self-determination, ROW includes a self-direction option, which allows for greater flexibility in hiring, training and general service delivery issues. ROW services are meant to enhance, not replace existing informal networks.

B. ROW offers an alternative to institutional care that:

1. utilizes a wide array of services, supports and residential options, which best meet the individual's needs and preferences;

B.2. - D. ...

E. The total expenditures available for each waiver participant is established through an assessment of individual support needs and ~~will~~may not exceed the approved ICF/ID ICAP rate/ROW budget level established for that individual except as approved by Office for Citizens with Developmental Disabilities'

(OCDD's) assistant secretary, deputy assistant secretary or his/her designee to prevent institutionalization.

1. When the department determines that it is necessary to adjust the ICF/ID ICAP rate, each waiver participant's annual service budget ~~shall~~may be adjusted to ensure that the participant's total available expenditures do not exceed the approved ICAP rate.

F. ...

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, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2154 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

**§16104. Settings for Home and Community Based Services**

A. ROW participants are expected to be integrated in and have full access to the greater community while receiving services, to the same extent as individuals without disabilities. Providers shall meet the requirements of the Centers for Medicare and Medicaid Services (CMS) home and

community-based setting requirements for home and community-based services (HCBS) waivers as delineated in LAC 50:XXI, Subpart 1 or any subsequent rule.

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 for Citizens with Developmental Disabilities, LR 45:

**§16105. Participant Qualifications**

A. In order to qualify for Residential Options Waiver (ROW), ~~an individual~~ individuals ~~must be 21 years of age or older and~~ of all ages must meet all of the following criteria:

1. - 8. ...

B. Individuals ~~under the age of 21 who receive~~ 18 through 20 may be offered a funded ROW ~~services prior to promulgation of this final Rule will be grandfathered in to~~ opportunity if the results of the uniform needs-based assessment and person-centered planning discussion determine that the ROW ~~program is~~ the most appropriate waiver. ~~Individuals under the age of 21 who are in the process of being certified into the ROW prior to the promulgation of this final Rule will retain their ROW offer and be allowed to transition to the ROW program~~ These offers are subject to the approval of the OCDD assistant secretary/designee.

C. ~~Individuals age 18 through 20 may be offered a funded ROW opportunity if the results of the uniform needs-based assessment and person-centered planning discussion determine that the ROW is the most appropriate waiver. These offers must be approved by the OCDD assistant secretary/designee.~~ 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 for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2155 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2530 (December 2017), LR 45:

**§16107. Programmatic Allocation of Waiver Opportunities**

A. - B.2. ...

3. Individuals on the registry who have the highest level of need and the earliest registry date shall be notified in writing when a funded OCDD waiver opportunity is available and that he/she is next in line to be evaluated for a possible waiver assignment. Participants shall have justification, based on a uniform needs-based assessment and a person-centered

planning discussion that the ROW is the OCDD waiver that will meet the needs of the individual.

B.4. - 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, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2155 (October 2015), LR 42:62 (January 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2530 (December 2017), LR 45:

**§16109. Admission, Denial or Discharge Criteria**

A. Admission to the ROW Program shall be denied if one of the following criteria is met.

1. - 7. ...

8. The individual does not have justification, based on a uniform needs-based assessment and a person-centered planning discussion that the ROW is the OCDD waiver that will meet the needs of the individual.

B. - B.10. ...

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, LR 33:2443 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2156 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

## **Chapter 163. Covered Services**

### **§16303. Community Living Supports**

A. - E.6. ...

7. Community living supports services are not available to individuals receiving the following services:

- a. ...
- b. home host; ~~or~~
- c. companion care-; or
- d. monitored in-home caregiving.

8. Community living supports cannot be billed or provided for during the same hours on the same day that the participant is receiving the following services:

- a. - c. ...
- d. respite out-of-home services; ~~or~~



e. transportation-community access~~;~~i

f. monitored in-home caregiving; or

g. adult day health care.

F. - F.1. ...

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, LR 33:2443 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2157 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

**§16305. Companion Care**

A. - F. ...

1. Companion care is not available to individuals receiving the following services:

a. - b. ...

c. community living supports; ~~or~~

d. host home~~;~~ or

e. monitored in-home caregiving.

G. ...

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, LR 33:2444 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2158 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

**§16307. Day Habilitation Services**

A. - A.3. ...

B. Day habilitation services shall:

1. - 3. ...

4. be furnished on a regularly scheduled basis for one or more days per week;

a. services are based on a ~~one-half day~~ 15 minute unit of service and on time spent at the service site by the participant;

b. ~~the one-half day unit of service requires a minimum of 2.5 hours~~ services shall not exceed 32 units of service on any given day or 160 units in any given week in a plan of care;

c. ~~two one-half day units may be billed if the participant spends a minimum of 5 hours at the~~ any time less than the 15 minute unit of service ~~site is not billable or payable; and~~

d. ~~any time less than 2.5 hours of services is not billable or payable; and~~ no rounding up of hours is allowed.

e. ~~no rounding up of hours is allowed.~~ Repealed.

C. - E.2. ...

3. Day habilitation services cannot be billed or provided during the same hours on the same day as any of the following services:

a. ...

b. professional services, except those direct contacts needed to develop a behavioral management plan or any other type of specialized assessment/plan; ~~or~~

c. respite care services-out of home-~~;~~ i

d. adult day health care; or

e. monitored in-home caregiving.

F. ...

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, LR 33:2445 (November 2007), amended by the

Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2158 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

**§16313. Host Home**

A. - I.1. ...

2. Separate payment will not be made for the following residential service models if the participant is receiving host home services:

a. - b. ...

c. shared living-conversion; ~~or~~

d. companion care~~;~~ or

e. monitored in-home caregiving.

I.3. - J.2. ...

3. Agencies serving adults must be licensed by the Department of Health ~~and Hospitals~~ as a provider of substitute family care 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, Office for Citizens with Developmental Disabilities, LR 33:2447 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services

Financing and the Office for Citizens with Developmental Disabilities, LR 41:2160 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45: **\$16319. One Time Transitional Services**

A. One-time transitional services are one-time, set-up services to assist individuals in making the transition from an ~~ICF/ID~~institution to their own home or apartment in the community of their choice.

B. - 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, Office for Citizens with Developmental Disabilities, LR 33:2449 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2162 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45: **\$16323. Prevocational Services**

A. Prevocational services are ~~activities designed to assist participants in acquiring and maintaining basic work-related skills necessary to acquire and retain meaningful~~

~~employment. Services should include real and simulated employment tasks to assist in determining their vocational potential. Overall goals of the program include regular community inclusion and development of work skills and habits to improve the participant's employability. Services must be reflective of the participant's POC and focused toward habilitation rather than teaching a specific job skill.~~time limited with employment at the individual's highest level of work in the most integrated community setting, with the job matched to the individual's interests, strengths, priorities, abilities and capabilities, with integrated competitive employment as the optimal outcome. Individuals receiving prevocational services may choose to pursue employment opportunities at any time. Career planning must be a major component of prevocational services.

~~1. Prevocational services should focus on teaching concepts and skills such as:~~

- ~~\_\_\_\_\_ a. following directions;~~
- ~~\_\_\_\_\_ b. attending to task;~~
- ~~\_\_\_\_\_ c. task completion;~~
- ~~\_\_\_\_\_ d. problem solving; and~~
- ~~\_\_\_\_\_ e. job safety skills.~~

~~2. The primary focus of prevocational services is the acquisition of employment related skills based on the individual's vocational preferences and goals.~~

~~a. These activities should include formal strategies for teaching the skills and the intended outcome for the individual.~~

~~b. Individualized progress for the activities should be routinely reviewed and evaluated with revisions made as necessary.~~1. - 2.b. Repealed.

B. ~~In the event participants~~Prevocational services are compensated while receiving prevocational services, the compensation must be in accordance with the United States Fair Labor Standards Act of 1985.to be provided in a variety of locations in the community and are not to be limited to a fixed site facility. Activities associated with prevocational services should be focused on preparing the participant for paid employment or a volunteer opportunity in the community. These services are operated through a provider agency that is licensed by the appropriate state licensing agency. Services are furnished one or more hours per day on a regularly scheduled basis for one or more days per week.

~~1. If participants are paid in excess of 50 percent of the minimum wage, the provider must, at a minimum:~~

~~a. conduct 6-month formal reviews to determine the suitability of this service rather than supported employment services;~~

~~b. make recommendations to transition the individual to a more appropriate vocational opportunity; and~~

~~c. provide the support coordinator with documentation of both the productivity time studies and documented reviews of current placement feasibility.~~1. - 1.c.

Repealed.

C. ~~The provider is responsible for all transportation from the agency to all vocational sites related to provision of~~Participants receiving services must have an employment related goal in their plan of care, and the general habilitation activities must be designed to support such employment goals.  
Prevocational services are designed to create a path to integrated community-based employment for which a participant is compensated at or above minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities.

1. ~~Travel training may be included in determining the number of hours of services provided per day for the period of time specified in the participant's POC.~~Repealed.



D. ~~Service Limits~~ Prevocational services can include assistance in personal care and with activities of daily living. Choice of this service and staff ratio needed to support the participant must be documented on the plan of care.

~~1. Services shall be limited to no more than eight hours per day, five days per week.~~

~~2. Services are based on a one-half day unit of service and time spent at the service site by the participant.~~

~~a. The one-half day unit of service requires a minimum of 2.5 hours at the service site by the participant;~~

~~b. two one-half day units may be billed in one day if the participant spends a minimum of 5 hours at the service site;~~

~~c. any time less than 2.5 hours of service is not billable or payable; and~~

~~d. no rounding up of hours is allowed.~~

~~3. Participants may receive more than one vocational/habilitative service per day as long as the billing criteria are followed for each service and the requirements for the minimum time spent on site are adhered to.~~ 1. - 3. Repealed.

E. ~~Service Exclusions~~ All transportation costs are included in the reimbursement for prevocational services. The participant must be present to receive this service. If a participant needs transportation, the provider must physically

provide, arrange, or pay for appropriate transport to and from a central location that is convenient for the participant and agreed upon by the team. The participant's transportation needs and this central location shall be documented in the plan of care.

~~1. Prevocational services are not available to participants who are eligible to participate in programs funded under the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act.~~

~~2. Multiple vocational/habilitative services cannot be provided or billed for during the same hours on the same day as the following services:~~

~~a. community living supports;~~

~~b. professional services, except those direct contacts needed to develop a behavioral management plan or other type of specialized assessment/plan; or~~

~~c. respite care services out of home.~~

~~3. Transportation to and from the service site is only payable when a vocational/habilitative service is provided on the same day.~~

~~4. Time spent in traveling to and from the prevocational program site shall not be included in the calculation of the total number of service hours provided per day.~~

~~a. During travel training, providers must not also bill for the transportation component as this is included in the rate for the number of service hours provided.~~

~~5. Transportation community access shall not be used to transport ROW participants to any prevocational services.~~  
1. - 5. Repealed.

F. ~~Provider Qualifications. Providers must have a current, valid license as an adult day care center.~~  
Service Limitations

1. Services shall not exceed 8,320 units of service in a plan of care.

2. Prevocational services are not available to participants who are eligible to participate in programs funded under the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act.

3. Multiple vocational/habilitative services cannot be provided or billed for during the same hours on the same day as the following services:

a. community living supports;

b. professional services, except those direct contacts needed to develop a behavioral management plan or other type of specialized assessment/plan;

c. respite care services-out of home;

d. adult day healthcare; or

e. monitored-in-home caregiving.

4. Transportation to and from the service site is only payable when a vocational/habilitative service is provided on the same day.

a. Time spent in traveling to and from the prevocational program site shall not be included in the calculation of the total number of service hours provided per day.

b. During travel training, providers must not also bill for the transportation component as this is included in the rate for the number of service hours provided.

c. Transportation-community access shall not be used to transport ROW participants to any prevocational services

G. Restrictions.

1. Participants receiving prevocational services may also receive day habilitation or individualized supported employment services, but these services cannot be provided during the same time period of the day and cannot total more than five hours combined in the same service day. Group supported employment services cannot be provided on the same day, but can be utilized on a different service day.

H. There must be documentation in the participant's file that this service is not available from programs funded under section 110 of the Rehabilitation Act of 1973 or sections 602

(16) or (17) of the Individuals with Disabilities Education Act [230 U.S.C. 1401 (16 and 71)] and those covered under the state plan.

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, LR 33:2450 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2162 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:  
**\$16327. Respite Care Services-Out of Home**

A. - C.1. ...

2. Respite care services-out of home may not be billed for participants receiving the following services:

a. ...

b. companion care; ~~or~~

c. host home~~;~~ or

d. monitored in-home caregiving.

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, Office for Citizens with Developmental Disabilities, LR 33:2451 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2164 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

**§16329. Shared Living Services**

A. - D.5. ...

6. The following services are not available to participants receiving shared living services:

a. - c. ...

d. host home; ~~or~~

e. personal emergency response system~~;~~ or

f. monitored in-home caregiving.

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, Office for Citizens with Developmental Disabilities, LR 33:2452 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental

Disabilities, LR 41:2164 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

**§16335. Supported Employment**

A. Supported employment ~~provides assistance in an integrated work setting to assist in the achievement and attainment of work related skills and includes on-going support to maintain~~ services consists of intensive, ongoing supports and services necessary for a participant to achieve the desired outcome of employment in a community setting in the state of Louisiana where a majority of the persons employed are without disabilities. Participants utilizing these services may need long-term supports for the life of their employment due the nature of their disability, and natural supports would not meet this need.

B. Supported employment services ~~include~~ provide supports in the following areas:

1. individual ~~placement which is a supported employment placement strategy in which an~~ job, group employment specialist ~~(job coach) places a person into competitive employment, provides training and support and then gradually reduces time and assistance at the worksite~~ or self-employment;

2. ~~services that assist a participant to develop and operate a micro-enterprise~~job assessment, discovery and development; and

~~a. This service consists of:~~

~~\_\_\_\_\_ i. assisting the participant to identify potential business opportunities;~~

~~\_\_\_\_\_ ii. assistance in the development of a business plan, including potential sources of business financing and other assistance in developing and launching a business;~~

~~\_\_\_\_\_ iii. identification of the supports that are necessary in order for the participant to operate the business; and~~

~~\_\_\_\_\_ iv. ongoing assistance, counseling and guidance once the business has been launched.~~a. - a.iv.

Repealed.

3. ~~enclave services which is an employment situation in competitive employment in which a group of eight or fewer workers with disabilities are working at a particular work setting. The workers with disabilities may be disbursed throughout the company and among workers without disabilities or congregated as a group in one part of the business~~initial job support and job retention, including assistance in personal care with activities of daily living in the supported employment setting and follow-along; -.



~~4. mobile work crews which is a group of eight or fewer workers with disabilities who perform work in a variety of locations under the supervision of a permanent employment specialist (job coach/supervisor); and~~

~~5. all transportation from the agency to all work sites related to provision of the service. The provider is responsible for furnishing the transportation.~~4. - 5. Repealed.

C. ~~Service Limits~~When supported employment services are provided at a work site where a majority of the persons employed are without disabilities, payment is only made for the adaptations, supervision and training required by participants receiving the service as a result of their disabilities. It does not include payment for the supervisory activities rendered as a normal part of the business setting.

~~1. The required minimum number of service hours per day per participant is as follows for:~~

~~a. individual placement services, the minimum is one hour;~~

~~b. services that assist a participant to develop and operate a micro-enterprise, the minimum is one hour;~~

~~c. an enclave, the minimum is 2.5 hours; and~~

~~d. a mobile work crew, the minimum is 2.5 hours.~~

~~2. Two half-day units may be billed if the participant spends a minimum of five hours at the service site.~~

~~3. Participants may receive more than one vocational or habilitative service per day as long as the service and billing requirements for each service are met.~~

~~4. Transportation to and from the service site is offered and billable as a component of the support employment service; however, transportation is payable only when a supported employment service is provided on the same day.~~1. - 4.

Repealed.

D. ~~Service Exclusions~~Transportation is included in supported employment services, but whenever possible, family, neighbors, friends, coworkers or community resources that can provide needed transportation without charge should be utilized.

~~1. Payment will only be made for the adaptations, supervision and training required by individuals receiving waiver services, and will not include payment for the supervisory activities rendered as a normal part of the business setting.~~

~~2. Any time less than one hour for individual placement and micro-enterprise is not billable or payable.~~

~~3. Supported employment services cannot be billed for the same time as any of the following services:~~

~~a. community living supports;~~

~~\_\_\_\_\_ b. professional services except direct contacts needed to develop a behavioral management plan; or~~

~~\_\_\_\_\_ c. respite care services out of home.~~

~~\_\_\_\_\_ 4. Any time less than 2.5 hours for enclaves and mobile crews is not billable or payable.~~

~~\_\_\_\_\_ 5. Time spent in traveling to and from the prevocational program site shall not be included in the calculation of the total number of service hours provided per day.~~

~~\_\_\_\_\_ a. Travel training for the purpose of teaching the participant how to use transportation services may be included in determining the total service numbers hours provided per day, but only for the period of time specified in the POC.~~

~~\_\_\_\_\_ 6. The following incentive payments, subsidies or unrelated vocational training expenses are excluded from coverage in supported employment services:~~

~~\_\_\_\_\_ a. incentive payments made to an employer to encourage or subsidize the employer's participation in a supported employment program;~~

~~\_\_\_\_\_ b. payments that are passed through to users of supported employment programs; or~~

~~\_\_\_\_\_ c. payments for vocational training that is not directly related to an individual's supported employment program.~~

~~7. Services are not available to individuals who are eligible to participate in programs funded under the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act.~~

~~8. No rounding up of hours is allowed.~~1. - 8.

Repealed.

~~E. Provider Qualifications. In order to enroll in the Medicaid Program, providers must have a compliance certificate from the Louisiana Rehabilitation Services as a community rehabilitation program or a current, valid license as an adult day care center.~~These services are also available to those participants who are self-employed. Funds for self-employment may not be used to defray any expenses associated with setting up or operating a business.

F. Supported employment services may be furnished by a coworker or other job-site personnel under the following circumstances:

1. the services furnished are not part of the normal duties of the coworker or other job-site personnel; and

2. these individuals meet the pertinent qualifications for the providers of service.

G. Service Limits. Participants may receive more than one vocational or habilitative service per day as long as the service and billing requirements for each service are met.

1. Services for individual/micro-enterprise job assessment, discovery and development in individual jobs and self-employment shall not exceed 2,880 units of service in a plan of care year.

2. Services for group job assessment, discovery and development in group employment shall not exceed 480 units of service in a plan of care year.

3. Services for initial job support, job retention and follow-along for individual/micro-enterprise shall not exceed 1280 quarter hour units of service in a plan of care year.

4. Services for initial job support, job retention and follow-along in group employment shall not exceed 8,320 quarter hour units of service in a plan of care year.

H. Service Exclusions/Restrictions. Participants receiving individual supported employment services may also receive prevocational or day habilitation services. However, these services cannot be provided during the same service hours and cannot total more than five hours of services in the same day. Participants receiving group supported employment services may also receive prevocational or day habilitation services; however, these services cannot be provided in the same service day.

1. Payment will only be made for the adaptations, supervision and training required by individuals receiving waiver services, and will not include payment for the supervisory activities rendered as a normal part of the business setting.

2. Any time less than one hour for individual placement and micro-enterprise is not billable or payable.

3. Supported employment services cannot be billed for the same time as any of the following services:

a. community living supports;

b. professional services except direct contacts needed to develop a behavioral management plan; or

c. respite care services-out of home,;

d. adult day health care; or

e. monitored in-home caregiving.

4. Any time less than fifteen minutes for enclaves and mobile crews is not billable or payable.

5. Time spent in traveling to and from the prevocational program site shall not be included in the calculation of the total number of service hours provided per day.

a. Travel training for the purpose of teaching the participant how to use transportation services may be

included in determining the total service numbers hours provided per day, but only for the period of time specified in the POC.

6. The following incentive payments, subsidies or unrelated vocational training expenses are excluded from coverage in supported employment services:

a. incentive payments made to an employer to encourage or subsidize the employer's participation in a supported employment program;

b. payments that are passed through to users of supported employment programs; or

c. payments for vocational training that is not directly related to an individual's supported employment program.

7. There must be documentation in the participant's file that these services are not available from programs funded under the Rehabilitation Act of 1973 or sections 602 (16) or (17) of the Individuals with Disabilities Education Act [230 U.S.C. 1401 (16 and 17)] and those covered under the State Plan.

8. No rounding up of service units is allowed.

I. Provider Qualifications. In order to enroll in the Medicaid Program, providers must have a compliance certificate from the Louisiana Rehabilitation Services as a community rehabilitation program or a current, valid license as an adult day care center.

F. Choice of this service and staff ratio needed to support the participant must be documented on the plan of care.

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, LR 33:2453 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2166 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

**§16337. Transportation-Community Access**

A. - C.1. ...

2. Separate payment will not be made for transportation-community access and the following services:

a. shared living services; ~~or~~

b. community living services~~;~~;

c. companion care;

d. adult day health care; or

e. monitored in-home caregiving.

C.3. - 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, Office for Citizens with Developmental Disabilities, LR 33:2454 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2166 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

**§16343. Adult Day Health Care Services**

A. ...

B. ADHC services include those core service requirements identified in the ADHC licensing standards (LAC 48.I.4243), in addition to:

1. ~~transportation between the participant's place of residence and the ADHC, in accordance with licensing standards~~medical care management;

2. ~~assistance with activities of daily living~~transportation between the participant's place of residence and the ADHC (if the participant is accompanied by the ADHC staff);

3. ~~health and nutrition counseling~~assistance with activities of daily living;

4. ~~an individualized exercise program~~health and nutrition counseling;

5. an individualized ~~goal-directed~~  
~~recreation~~exercise program;
6. ~~health education classes~~an individualized goal-  
directed recreation program;
7. ~~individualized health/nursing services~~health  
education; ~~and~~
8. ~~meals.~~individualized health/nursing services; and
9. meals.

B.9.a. - E. ...

F. The following services are not available to AFDC  
recipients:

1. respite care services-out of home;
2. shared living;
3. companion care, or
4. monitored in-home caregiving.

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 42:62  
(January 2016), amended by the Department of Health, Bureau of  
Health Services Financing and the Office for Citizens with  
Developmental Disabilities, LR 45:

**§16345. Monitored In-Home Caregiving Services**

A. Monitored in-home caregiving (MIHC) services are provided by a principal caregiver to a participant who lives in a private unlicensed residence. The principal caregiver shall be contracted by the licensed HCBS provider having a MIHC service module. The principal caregiver shall reside with the participant. Professional staff employed by the HCBS provider shall provide oversight, support and monitoring of the principal caregiver, service delivery, and participant outcomes through on-site visits, training, and daily, web-based electronic information exchange.

B. The principal caregiver is responsible for supporting the participant to maximize the highest level of independence possible by providing necessary care and supports that may include:

1. supervision or assistance in performing activities of daily living;

2. supervision or assistance in performing instrumental activities of daily living;

3. protective supervision provided solely to assure the health and welfare of a participant;

4. supervision or assistance with health related tasks (any health related procedures governed under the Nurse Practice Act) in accordance with applicable laws governing the delegation of medical tasks/medication administration;

5. supervision or assistance while escorting/ accompanying the individual outside of the home to perform tasks, including instrumental activities of daily living, health maintenance or other needs as identified in the plan of care and to provide the same supervision or assistance as would be rendered in the home; and

6. extension of therapy services to maximize independence when the caregiver has been instructed in the performance of the activities by a licensed therapist or registered nurse.

C. Unless the individual is also the spouse of the participant, the following individuals are prohibited from being paid as a monitored in-home caregiving principal caregiver:

1. the participant's curator;
2. the participant's tutor;
3. the participant's legal guardian;
4. the participant's responsible representative; or
5. the person to whom the participant has given representative and mandate authority (also known as power of attorney).

D. Participants electing monitored in-home caregiving services shall not receive the following Residential Options waiver services during the period of time that the participant is receiving monitored in-home caregiving services:

1. community living supports;
2. companion care;
3. host home;
4. shared living (conversion or non-conversion); or
5. adult day health care services.

E. Monitored in-home caregiving providers must be licensed HCBS providers with a monitored in-home caregiving module who employ professional staff, including a registered nurse and a care manager, to support principal caregivers to perform the direct care activities performed in the home. The agency provider must assess and approve the home in which services will be provided, and shall enter into contractual agreements with caregivers who the agency has approved and trained. The agency provider will pay per diem stipends to caregivers.

F. The MIHC provider must use secure, web-based information collection from principal caregivers for the purposes of monitoring participant health and caregiver performance. All protected health information must be transferred, stored, and otherwise utilized in compliance with applicable federal and state privacy laws. Providers must sign, maintain on file, and comply with the LDH HIPAA business associate addendum.

G. The department shall reimburse for monitored in-home caregiving services based upon a two-tiered model which is designed to address the participant's ROW acuity level.

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 for Citizens with Developmental Disabilities, LR 45:

## **Chapter 169. Reimbursement**

### **§16901. Unit of Reimbursement**

A. Reimbursement for the following services shall be a prospective flat rate for each approved unit of service provided to the waiver participant. One quarter hour (15 minutes) is the standard unit of service and reimbursement shall not be made for less than one quarter hour of service. This covers both the service provision and administrative costs for these services:

1. - 4.b. ...
5. professional services furnished by a/an:
  - a. - d. ...
  - e. social worker; ~~or~~
  - f. ...
6. supported employment;
  - a. individual placement; ~~and~~
  - b. micro-enterprise; ~~and~~

7. adult day health care-~~i~~

8. pre-vocational service; and

9. day habilitation.

\* \* \*

B. - B.2. ...

C. The following services are reimbursed at a per diem rate:

1. ...

2. companion ~~cares living~~care services; ~~and~~

3. shared living services;

a. ~~Per~~per diem rates are established based on the number of individuals sharing the living service module for both shared living non-conversion and shared living conversion services-~~;~~ and

4. monitored in-home caregiving services.

a. The per diem rate for monitored in-home caregiving services does not include payment for room and board, and federal financial participation is not claimed for room and board.

D. ~~The following services are reimbursed at a per one-half day unit of service based on a minimum of 2.5 hours spent on-site by the participant.~~The reimbursement for transportation services is a flat fee based on a capitated rate.

~~1. day habilitation;~~

- ~~2. pre-vocational; and~~
- ~~3. supported employment:~~
- ~~a. mobile crew; and~~
- ~~b. enclave.~~1. - 3.b. Repealed.

E. ~~The reimbursement for transportation services is a flat fee based on a capitated rate~~Nursing services are reimbursed at either an hourly or per visit rate for the allowable procedure codes.

F. ~~Nursing services are~~Installation of a personal emergency response system (PERS) is reimbursed at ~~either an hourly or per visit~~a one-time fixed rate ~~for the allowable procedure codes~~ and maintenance of the PERS is reimbursed at a monthly rate.

G. ~~Installation of a personal emergency response system (PERS) is~~Transition expenses from an ICF/ID or nursing facility to a community living setting are reimbursed at ~~a one-time fixed rate and maintenance of the PERS is reimbursed at a monthly rate~~the cost of the service(s) up to a lifetime maximum rate of \$3,000.

H. ~~Transition expenses from an ICF/ID or nursing facility to a community living setting~~Dental services are reimbursed at ~~the cost of the service(s) up to a lifetime maximum rate of \$3,000~~Medicaid fee-for-service rate.



I. ~~Dental services are~~ The assessment performed by the monitored in-home caregiving provider shall be reimbursed at the ~~Medicaid fee-for-service~~ authorized rate or approved amount of the assessment when the service has been prior authorized by the plan of care.

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, Office for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:1049 (April 2013), LR 41:2168, 2170 (October 2015), LR 42:63 (January 2016), LR 42:900 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2530 (December 2017), 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 a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 as it will allow children currently served in ROW to continue access to those services, will allow individuals to transition to ROW without service interruption, allow participants to access the same amounts and duration of service as other waiver participants, and allow individuals to access additional supports which may prevent institution.

#### **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 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 will improve access to services.

#### **Small Business Statement**

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 a positive 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 this proposed Rule increases payments to providers.

### **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.

### **Public Hearing**

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