

NOTICE OF INTENT

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

Early and Periodic Screening, Diagnosis and Treatment
Health Services
EarlySteps Reimbursement Rate Increase
(LAC 50:XV.7107)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XV.7101 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.

Act 199 of the 2022 Regular Session of the Louisiana Legislature appropriated funds to the Department of Health to increase reimbursement rates paid for certain services rendered to infants and toddlers in the EarlySteps Program within the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. In compliance with Act 199, the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities promulgated an Emergency Rule which amended the provisions governing EPSDT EarlySteps services in order to increase reimbursement for certain services (*Louisiana Register*, Volume 48, Number 8). This proposed Rule is

being promulgated in order to continue the provisions of the July 31, 2022 Emergency Rule.

Title 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment
Chapter 71. Health Services

§7107. EarlySteps Reimbursement

A. ~~EarlySteps (Part C of IDEA). The reimbursement~~
Effective for ~~health services rendered to infants and toddlers~~
~~with disabilities who are 0 to 3 years old shall be the lower of~~
~~billed charges~~ dates of service on or ~~75 percent of the rate (a~~
~~25 percent reduction) in effect on~~ after January ~~31, 2005~~ 2011,
the reimbursement for certain Medicaid-covered health services
rendered in the EarlySteps Program shall be reduced by 2 percent
of the rate in effect on December 31, 2010.

1. The following services rendered in the natural
environment shall be reimbursed at the reduced rate:

- a. audiology services;
- b. speech pathology services;
- c. occupational therapy;
- d. physical therapy; and
- e. psychological services.

2. Services rendered in special purpose
facilities/inclusive child care and center-based special purpose
facilities shall be excluded from this rate reduction.

B. ~~EarlySteps (Part C of IDEA).~~ Effective for dates of service on or after ~~September 1, 2008~~July 1, 2022, the reimbursement for ~~certain~~Medicaid covered health services rendered in ~~a natural environment to infants and toddlers with disabilities who are 0 to 3 years old~~the EarlySteps Program (Part C of IDEA) shall be increased by ~~25~~30 percent of the rate in effect on ~~August 31, 2008~~January 1, 2011.

1. ~~For purposes of these provisions, a natural environment may include a child's home or~~The increased rate shall be applied to services provided in the following settings in the community that are natural or normal for the child's age and peers who have no disability (i.e. childcare facility, nursery, preschool program, or playground).:

a. natural environment that includes a child's home and settings in the community where children of the same age with no disabilities or special needs participate;

b. special purpose facility/inclusive child care that includes settings such as a child care center, nursery schools, or preschools where at least 50 percent of the children have no disabilities or developmental delays, and

c. center-based special purpose facility that is a facility where only children with disabilities or developmental delays are served.

2. The following services ~~rendered in a natural environment~~ shall be reimbursed at the increased rate:

- a. ~~occupational therapy~~ audiology services;
- b. ~~physical therapy~~ speech language pathology services;
- c. ~~speech language pathology services~~ occupational therapy;
- d. ~~audiology services~~ physical therapy; and
- e. psychological services.

~~C. Effective for dates of service on or after January 1, 2011, the reimbursement for certain Medicaid covered health services rendered in the EarlySteps Program shall be reduced by 2 percent of the rate in effect on December 31, 2010.~~

~~1. The following services rendered in the natural environment shall be reimbursed at the reduced rate:~~

- ~~a. audiology services;~~
- ~~b. speech pathology services;~~
- ~~c. occupational therapy;~~
- ~~d. physical therapy; and~~
- ~~e. psychological services.~~

~~2. Services rendered in special purpose facilities/inclusive child care and center-based special purpose facilities shall be excluded from this rate reduction.~~ C. - C.2.

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 30:800 (April 2004), amended LR 31:2030 (August 2005), LR 35:69 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1599 (June 2011), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:

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 or autonomy as described in R.S. 49:972 by ensuring continued provider participation in the Medicaid Program.

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 the Small Business Protection Act, 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.

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 for the services they already render.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 31, 2022.

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, 2022. 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 27, 2022 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, 2022. 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.

Dr. Courtney N. Phillips

Secretary