

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing
and
Office of Aging and Adult Services

Home and Community-Based Services Waivers
Support Coordination Workforce Retention Bonus Payments
(LAC 50:XXI.553)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to adopt LAC 50:XXI.553 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 U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) approved the use of bonus payments for agencies providing support coordination services to home and community-based services (HCBS) waiver participants under section 9817 of the American Rescue Plan.

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services promulgated an Emergency Rule which adopted provisions in order to establish workforce retention bonus payments for support coordination agencies along with audit procedures and sanctions. (*Louisiana Register*, Volume 48, Number 8). This proposed Rule is being

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

Title 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services Waivers
Subpart 1. General Provisions

**Chapter 5. Support Coordination Standards for Participation
for Office of Aging and Adult Services Waiver Programs**

Subchapter C. Provider Responsibilities

§553. Workforce Retention Bonus Payments

A. Establishment of Support Coordination Workforce Bonus
Payments

1. Support coordination agencies (SCAs) providing
services on or after April 1, 2021 shall receive bonus payments
of \$150 per month for each SCA staff member that worked directly
with participants for that month. These payments will remain in
effect for each month thereafter that the SCA staff member
worked directly with participants and is still employed with the
agency.

2. The SCA staff member that worked directly with
participants on or after April 1, 2021 must receive at least
\$125 of this \$150 bonus payment paid to the agency. This bonus
payment is effective for all affected SCA staff members of any
working status, whether full-time or part-time.

3. Bonus payments will end March 31, 2025 or when the state's funding authorized under section 9817 of the American Rescue Plan Act of 2021 (Pub. L. No. 117-02) is exhausted.

4. The Department of Health (LDH) reserves the right to adjust the amount of the bonus payments paid to the SCA staff member as needed through appropriate rulemaking promulgation consistent with the Administrative Procedure Act.

B. Audit Procedures for Support Coordination Workforce Retention Bonus Payments

1. The bonus payments reimbursed to support coordination agencies shall be subject to audit by LDH.

2. Support coordination agencies shall provide to LDH or its representative all requested documentation to verify that they are in compliance with the SCA staff member bonus payments.

3. This documentation may include, but is not limited to, payroll records, wage and salary sheets, check stubs, etc.

4. Support coordination agencies shall produce the requested documentation upon request and within the timeframe provided by LDH.

5. Non-compliance or failure to demonstrate that the bonus payments were paid directly to SCA staff member may result in the following:

a. sanctions; or

b. disenrollment from the Medicaid program.

C. Sanctions for Support Coordination Workforce Retention Bonus Payments

1. The support coordination agencies will be subject to sanctions or penalties for failure to comply with this Rule. The severity of such action shall depend upon the following:

a. failure to pay SCA staff members the \$125 monthly bonus payments;

b. the number of employees identified as having been paid less than the \$125 monthly bonus payments; or

c. the persistent failure to pay the \$125 monthly bonus payments; or

d. failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this 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 of Aging and Adult Services, 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 and 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