



State of Louisiana
Louisiana Department of Health
Office of the Secretary

July 6, 2016

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Taylor F. Barras, Speaker of the House
The Honorable Fred H. Mills, Jr., Chairman, Senate Committee on Health and Welfare
The Honorable Frank A. Hoffmann, Chairman, House Committee on Health and Welfare
The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FROM: Rebekah E. Gee MD, MPH
Secretary

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Disproportionate Share Hospital Payments - Mental Health Emergency Room Extensions.

The Department published a Notice of Intent on this proposed Rule in the May 20, 2016 issue of the *Louisiana Register* (Volume 42, Number 5). A public hearing was held on June 29, 2016 at which only Louisiana Department of Health staff were present. No oral testimony was given or written comments received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the August 20, 2016 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

REG/WJR/RKA

Attachments (3)

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Disproportionate Share Hospital Payments
Mental Health Emergency Room Extensions
(LAC 50:V.2711)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to repeal LAC 50:V.2711 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 and Hospitals, Bureau of Health Services Financing amended the provisions governing disproportionate share hospital (DSH) payments for mental health emergency room extensions (MHEREs) in order to change the deadline for hospitals that established a MHERE to sign an agreement to participate for reimbursement of uncompensated care costs for psychiatric services (*Louisiana Register*, Volume 36, Number 8).

As a result of a budgetary shortfall in state fiscal year 2015, the department determined that it was necessary to amend the provisions governing DSH payments to eliminate payments for MHEREs (*Louisiana Register*, Volume 41, Number 3). This proposed

Rule is being promulgated in order to continue the provisions of the March 5, 2015 Emergency Rule.

TITLE 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 3. Disproportionate Share Hospital Payments

Chapter 27. Qualifying Hospitals

§2711. Mental Health Emergency Room Extensions

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 34:1628 (August 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1781 (August 2010), repealed LR 42:

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 or autonomy as described in R.S. 49:972.

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.

In compliance with House Concurrent Resolution 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 increase the total direct and indirect cost to the provider to provide the same level of service due to the elimination of these payments. The proposed Rule may also have a negative impact on the provider's ability to provide the same level of service as described in HCR 170 if the elimination of these payments adversely impacts the provider's financial standing.

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 Wednesday, June 29, 2016 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



State of Louisiana
Louisiana Department of Health
Office of the Secretary

PUBLIC HEARING CERTIFICATION

**June 29, 2016
9:30 a.m.**

RE: Disproportionate Share Hospital Payments
Mental Health Emergency Room Extensions
Docket # 06292016-01
Department of Health
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on June 29, 2016 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in blue ink, appearing to read "Robert K. Andrepont", written over a horizontal line.

Robert K. Andrepont
Medicaid Policy and Compliance
Section

06/29/16
Date

DHH/BHSF PUBLIC HEARING

Topic – Disproportionate Share Hospital Payments – Mental Health Emergency Room Extensions

Date – June 29, 2016

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. <i>Cornette Scott</i>	<i>Louisiana Dept. of Health 628 N. 4th Street Baton Rouge, LA 70802</i>	<i>225-342-3881</i>	<i>Medicaid Policy & Compliance</i>
2. <i>Jackson Carney</i>	<i>LDH</i>	<i>225 842-8621</i>	<i>ORH</i>
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State of Louisiana
Louisiana Department of Health
Office of the Secretary

July 6, 2016

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Taylor F. Barras, Speaker of the House
The Honorable Fred H. Mills, Jr., Chairman, Senate Committee on Health and Welfare
The Honorable Frank A. Hoffmann, Chairman, House Committee on Health and Welfare
The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FROM: Rebekah E. Gee MD, MPH
Secretary

A handwritten signature in blue ink, appearing to read "Rebekah E. Gee", with a large, stylized flourish extending from the end.

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Early and Periodic Screening, Diagnosis and Treatment – School-Based Nursing Services.

The Department published a Notice of Intent on this proposed Rule in the May 20, 2016 issue of the *Louisiana Register* (Volume 42, Number 5). A public hearing was held on June 29, 2016 at which only Department of Health and Hospitals staff were present. No oral testimony was given or written comments received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the August 20, 2016 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

REG/WJR/CEC

Attachments (3)

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Early and Periodic Screening, Diagnosis and Treatment School-Based Nursing Services (LAC 50:XV.9501)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XV.9501 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 and Hospitals, Bureau of Health Services Financing promulgated a Rule which adopted provisions to establish reimbursement and coverage for school-based nursing services rendered to all children enrolled in Louisiana schools (*Louisiana Register*, Volume 39, Number 10).

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) recently issued guidance which removed the requirement that school-based nursing services be included on the individualized education plan (IEP) to be reimbursed by Medicaid.

As a result of the CMS guidance, the department promulgated an Emergency Rule to amend the provisions governing school-based nursing services covered in the EPSDT Program to remove the IEP requirement (*Louisiana Register*, Volume 41, Number 6). This

proposed Rule is being promulgated to continue the provisions of the July 1, 2015 Emergency Rule.

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

Chapter 95. School-Based Nursing Services

§9501. General Provisions

A. - B. ...

C. School-based nursing services shall be covered for all recipients in the school system.

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, Bureau of Health Services Financing, LR 39:2760 (October 2013), amended LR: 42

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.

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.

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 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 Wednesday, June 29, 2016 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



State of Louisiana
Louisiana Department of Health
Office of the Secretary

PUBLIC HEARING CERTIFICATION
June 29, 2016
9:30 a.m.

RE: Early and Periodic Screening, Diagnosis and Treatment
School-Based Nursing Services
Docket # 06292016-02
Department of Health
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on June 29, 2016 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A blue ink signature of Robert K. Andrepont, written over a horizontal line.

Robert K. Andrepont
Medicaid Policy and Compliance
Section

06/29/16
Date

DHH/BHSF PUBLIC HEARING

Topic – Early and Periodic Screening, Diagnosis and Treatment School-Based Nursing Services

Date – June 29, 2016

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornette Scott	Louisiana Dept. of Health 628 N. 4th Street Baton Rouge, LA 70802	225-342-3881	Medicaid Policy & Compliance
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Louisiana Department of Health
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MEMORANDUM

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The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FROM: Rebekah E. Gee MD, MPH
Secretary

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Facility Need Review – Major Alterations.

The Department published a Notice of Intent on this proposed Rule in the May 20, 2016 issue of the *Louisiana Register* (Volume 42, Number 5). A public hearing was held on June 29, 2016 at which only Department of Health and Hospitals staff were present. No oral testimony was given or written comments received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the August 20, 2016 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

REG/WJR/CEC

Attachments (3)

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing**

**Facility Need Review
Major Alterations
(LAC 48:I.12537)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 48:I.12537 in the Medical Assistance Program as authorized by R.S. 36:254. 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 amended the provisions governing the Facility Need Review Program (FNR) in order to remove outpatient abortion facilities from the FNR process, and to correct the formatting of §12503 as a result of the promulgation of a January 20, 2015 Rule governing the FNR process (*Louisiana Register*, Volume 41, Number 10).

The department has now determined that it is necessary to amend the provisions governing the FNR program in order to provide exceptions pertaining to the expiration of facility need review approvals for beds that are de-licensed and decertified when facilities undergo major alterations.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration
Subpart 5. Health Planning

Chapter 125. Facility Need Review

Subchapter F. Exception Criteria for Bed Approvals

§12537. Temporary Inactivation Due to Major Alterations.

A. A licensed nursing facility, ICF/ID or level IV ARCP which is undergoing major alterations to its physical plant may request a temporary inactivation of a certain number of the facility's facility need review (FNR) bed approvals provided that:

1. The nursing facility, ICF/ID or level IV ARCP submits a written request to the licensing agency of the department seeking temporary inactivation of a certain number of its FNR bed approvals. Such written request shall include the following:

a. a statement that the nursing facility, ICF/ID or level IV ARCP is undergoing major alterations to ensure or enhance the health, safety and welfare of the residents;

b. a statement that the major alterations to the nursing facility, ICF/ID or level IV ARCP will cause a certain number of beds to be de-licensed and decertified;

c. an attestation that the alterations are the sole causal factor in the request for temporary inactivation of the FNR bed approvals;

d. the anticipated start date of the temporary inactivation of the FNR bed approvals;

e. the anticipated end date of the temporary inactivation of the FNR bed approvals; and

f. the number of FNR bed approvals requested to be inactivated temporarily.

2. Upon receiving a completed written request by a facility for temporary inactivation of a certain number of FNR bed approvals, the department shall review the request to determine whether the request satisfies the requirements of this section. If the requirements of this section are met, the department shall issue a notice of temporary inactivation of a certain number of the facility's FNR bed approvals.

3. Upon completion of the major alterations, the facility shall submit to the department a completed written request to reinstate the FNR bed approvals that were inactivated due to the major alterations to the facility.

Note: The FNR bed approvals capacity, after major alterations are completed, shall not exceed the FNR bed approvals capacity of the nursing facility, ICF/ID or level IV ARCP at the time of the request to temporarily inactivate a certain number of its FNR bed approvals prior to the major alterations.

4. The provisions of this Subsection shall not apply to a nursing facility, ICF/ID or level IV ARCP which has voluntarily surrendered its license or has voluntarily disenrolled the facility's beds from Medicaid.

5. There shall be no effect upon the Medicaid reimbursement rate of a nursing facility or an ICF/ID that is undergoing major alterations pursuant to this rule during the period of the inactivation of the FNR approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

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.

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.

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 Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, June 29, 2016 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



State of Louisiana
Louisiana Department of Health
Office of the Secretary

PUBLIC HEARING CERTIFICATION

June 29, 2016

9:30 a.m.

RE: Facility Need Review
Major Alterations
Docket # 06292016-03
Department of Health
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on June 29, 2016 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in blue ink, appearing to read "Robert K. Andrepont", written over a horizontal line.

Robert K. Andrepont
Medicaid Policy and Compliance
Section

06/29/16

Date

DHH/BHSF PUBLIC HEARING

Topic – Facility Need Review – Major Alterations

Date – June 29, 2016

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornette Scott	Louisiana Dept. of Health 628 N. 4th Street Baton Rouge, LA 70802	225-342-3881	Medicaid Policy & Compliance
2. Yolanda Ellis	LJH " "	225-342-5042	Medicaid Policy & Compliance
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