



State of Louisiana
Louisiana Department of Health
Office of the Secretary

December 10, 2020

Via Statutorily Prescribed Email

To: The Honorable Fred H. Mills, Jr., Chairman, Senate Health & Welfare Committee
The Honorable Larry Bagley, Chairman, House Health & Welfare Committee

From: Dr. Courtney N. Phillips
Secretary

A handwritten signature in black ink, appearing to read "Ruth Johnson", written over the name "Dr. Courtney N. Phillips".

Re: Second Report on Proposed Amendments to LAC 50:XI.10301, 10303, 10503, and 10701 – Federally Qualified Health Centers

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Federally Qualified Health Centers rule amendment.

A Notice of Intent on the proposed amendments was published in the October 20, 2020 issue of the *Louisiana Register* (LR 46:1440). No written comments were received and there was no request for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the October 20, 2020, Notice of Intent when it is published as a final rule in the January 20, 2021, issue of the *Louisiana Register*.

Please contact Marcus Bachhuber, MD, at marcus.bachhuber@la.gov, if you have any questions or require additional information about this matter.

Cc: Marcus Bachhuber, MD, LDH Medicaid Program Manager
Kelly Zimmerman, LDH Interim Medicaid Deputy Director
Jennifer Katzman, LDH Interim Senior Staff Advisor
Veronica Dent, LDH Medicaid Program Manager
Anita Dupuy, Legislative Liaison, LDH
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Analysis

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses:

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. The proposed Rule contains no compliance or reporting requirements.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. The proposed Rule contains no schedules or deadlines for compliance or reporting requirements.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. The proposed Rule contains no compliance or reporting requirements.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. There are no design or operational standards in the proposed Rule.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities:

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed Rule will have no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed Rule will have no effect on the cost to the provider to provide the same level of service.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of service. The proposed Rule will have no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative by personal delivery to Malcolm J. Broussard, Executive Director, at the office of the Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding the proposed Rule amendment.

Public Hearing

A public hearing to solicit comments and testimony on the proposed Rule is scheduled for 9 am on Wednesday, November 25, 2020. During the hearing, all interested persons will be afforded an opportunity to submit data,

views, or arguments, either orally or in writing. The deadline for the receipt of all comments is 12 p.m. noon that same day. To request reasonable accommodations for persons with disabilities, please call the board office at 225.925.6496.

Malcolm J. Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Pharmacy Benefit Managers

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed will require the Louisiana Board of Pharmacy (LBP) to license and regulate any pharmacy benefit manager (PBM) operating within the state and engaging in one or more of ten specifically identified activities construed to be within the practice of pharmacy.

The proposed rule will require LBP to publish the proposed and final rules in the state register, at a cost of \$2,000 in FY 21. To operationalize the credentialing aspect of the rule, the Board will incur a fee of \$500 per year to create and maintain the PBM permit in its licensure information system. There will be no additional expenditures or cost savings for other state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will generate approximately \$20,000 per fiscal year for LBP from permit fees paid by pharmacy benefit managers. The proposed rule will not affect revenue collections for other state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will require a PBM operating within the state to obtain and maintain a PBM permit from LBP at a cost of \$500 per year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will not affect competition or employment.

Malcolm J. Broussard
Executive Director
2010#034

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Federally Qualified Health Centers
(LAC 50:XI.10301, 10303, 10503 and 10701)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XI.10301, §10303, §10503 and §10701 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 sec.

The Department of Health, Bureau of Health Services Financing, proposes to amend the provisions governing federally qualified health centers to ensure the language reflects current practices and promulgate these provisions

clearly and accurately in the *Louisiana Administrative Code*, and to remove procedural language from the administrative Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 13. Federally-Qualified Health Centers

Chapter 103. Services

§10301. Scope of Services

[Formerly §10501]

A. - A.5. ...

B. The department shall provide coverage of diabetes self-management training services rendered to Medicaid beneficiaries diagnosed with diabetes mellitus.

1. Repealed.

C. The department shall provide coverage for fluoride varnish applications performed in the FQHC.

1. - 2.b.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 30:2328 (October 2004), repromulgated LR 30:2487 (November 2004), amended LR 32:1902 (October 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2629 (September 2011), LR 39:3076 (November 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1520 (September 2016), LR 47:

§10303. Service Limits

[Formerly §10503]

A. There shall be no limits placed on the number of federally qualified health center visits (encounters) payable by the Medicaid program for eligible beneficiaries.

B. - B.1. 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 32:1902 (October 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2280 (October 2010), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2629 (September 2011), LR 41:2637 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

Chapter 105. Provider Participation

§10503. Standards for Participation

[Formerly §10303]

A. Federally qualified health centers must comply with the applicable licensure, accreditation and program participation standards for all services rendered. If a FQHC wishes to initiate participation, it shall be responsible for meeting all of the enrollment criteria of the program. The FQHC provider shall:

1. ...

2. retain all records necessary to fully disclose the extent of services provided to beneficiaries for five years from the date of service and furnish such records, and any payments claimed for providing such services, to the Medicaid Program upon request; and

A.3. - B. ...

C. - D.3. 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 30:2328 (October 2004), repromulgated LR 30:2488 (November 2004), amended LR 32:1901 (October 2006), amended LR 37:2630 (September 2011), amended by the Department of Health, Bureau of Health Services Financing, LR 44:1253 (July 2018), LR 47:

Chapter 107. Reimbursement Methodology

§10701. Prospective Payment System

A. - B.4. ...

a. Fluoride varnish applications shall only be reimbursed to the FQHC when performed on the same date of service as an office visit or preventive screening. Separate encounters for fluoride varnish services are not permitted and the application of fluoride varnish does not constitute an encounter visit.

C. - G.3. ...

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 32:1902 (October 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2630 (September 2011), LR 39:3076 (November 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 44:1253 (July 2018), LR 47:

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 or 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 Ruth Johnson, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Johnson is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on November 29, 2020.

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 November 9, 2020. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, the department will conduct a public hearing at 8:00 a.m. on November 24, 2020 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after November 9, 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.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Federally Qualified Health Centers

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will result in no programmatic fiscal impact to the state other than the cost of promulgation for FY 20-21. It is anticipated that \$864 (\$432 SGF and \$432 FED) will be expended in FY 20-21 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no impact to revenue collections other than the federal share of the promulgation costs for FY 20-21. It is anticipated that \$432 will be collected in FY 20-21 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule amends the provisions governing federally qualified health centers in order to ensure the language reflects current practices and promulgate these provisions clearly in the Louisiana Administrative Code, and to remove procedural language from the administrative Rule. This

rule is anticipated to have no impact on recipients. It is anticipated that implementation of this proposed rule will not result in any economic impact to Medicaid providers or small businesses in FY 20-21, 21-22, and 22-23, but will be beneficial in ensuring that the provisions are presented clearly and accurately.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that implementation of this proposed rule will not have any known effect on competition and employment.

Ruth Johnson
Medicaid Executive Director
2010#044

Christopher A. Keaton
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Home and Community-Based Services Providers Licensing Standards (LAC 48:I.5038)

~~The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 48:I.5038 as authorized by R.S. 36:254 and R.S. 40:2120.2. 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 promulgated an Emergency Rule which amended the provisions governing the licensing standards for home and community-based services (HCBS) providers in order to adopt provisions to allow licensed HCBS providers to operate and provide services outside of their licensed geographic areas to existing clients who have evacuated or temporarily relocated to another location in the state due to a gubernatorial declared state of emergency or disaster in Louisiana (Louisiana Register, Volume 46, Number 10). This proposed Rule is being promulgated in order to continue the provisions of the September 21, 2020 Emergency Rule.~~

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 50. Home and Community-Based Services Providers Licensing Standards

Subchapter C. Admission, Transfer and Discharge Criteria

§5038. Provisions for Services to Clients Outside of Licensed Geographic Area in Event of a Gubernatorial Declared State of Emergency or Disaster

~~A. To ensure the health and safety of clients, and the coordination and continuation of services to clients, during a gubernatorial declared state of emergency or disaster in Louisiana, the department, through written notice sent electronically to licensed HCBS providers, may allow a licensed HCBS provider to operate and provide services to existing clients who are receiving personal care services and respite services and who have evacuated or temporarily relocated to another location in the state when the following apply:~~



State of Louisiana
Louisiana Department of Health
Office of the Secretary

December 10, 2020

Via Statutorily Prescribed Email

To: The Honorable Fred H. Mills, Jr., Chairman, Senate Health & Welfare Committee
The Honorable Larry Bagley, Chairman, House Health & Welfare Committee

From: Dr. Courtney N. Phillips
Secretary

A handwritten signature in black ink, appearing to read "Courtney N. Phillips".

Re: Second Report on Proposed Amendments to LAC 48:I.5038 – Home and Community-Based Services Providers Licensing Standards

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Federally Qualified Health Centers rule amendment.

A Notice of Intent on the proposed amendments was published in the October 20, 2020 issue of the *Louisiana Register* (LR 46:1442). No written comments were received and there was no request for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the October 20, 2020, Notice of Intent when it is published as a final rule in the January 20, 2021, issue of the *Louisiana Register*.

Please contact Brenda Blanchard, BSN, RN, at brenda.blanchard@la.gov, if you have any questions or require additional information about this matter.

Cc: Cecile Castello, RN, Director, Health Standards Section, LDH
Brenda Blanchard, BSN, RN, Medical Certification Manager, Health Standards Section, LDH
Veronica Dent, LDH Medicaid Program Manager
Anita Dupuy, Legislative Liaison, LDH
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Ruth Johnson, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Johnson is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on November 29, 2020.

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 November 9, 2020. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, the department will conduct a public hearing at 8:00 a.m. on November 24, 2020 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after November 9, 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 (eater 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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Federally Qualified Health Centers

~~I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)~~

~~It is anticipated that implementation of this proposed rule will result in no programmatic fiscal impact to the state other than the cost of promulgation for FY 20-21. It is anticipated that \$864 (\$432 SGF and \$432 FED) will be expended in FY 20-21 for the state's administrative expense for promulgation of this proposed rule and the final rule.~~

~~II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)~~

~~It is anticipated that the implementation of this proposed rule will have no impact to revenue collections other than the federal share of the promulgation costs for FY 20-21. It is anticipated that \$432 will be collected in FY 20-21 for the federal share of the expense for promulgation of this proposed rule and the final rule.~~

~~III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)~~

~~The proposed Rule amends the provisions governing federally qualified health centers in order to ensure the language reflects current practices and promulgate these provisions clearly in the Louisiana Administrative Code, and to remove procedural language from the administrative Rule. This~~

~~rule is anticipated to have no impact on recipients. It is anticipated that implementation of this proposed rule will not result in any economic impact to Medicaid providers or small businesses in FY 20-21, 21-22, and 22-23, but will be beneficial in ensuring that the provisions are presented clearly and accurately.~~

~~IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)~~

~~It is anticipated that implementation of this proposed rule will not have any known effect on competition and employment.~~

Ruth Johnson
Medicaid Executive Director
2010#044

Christopher A. Keaton
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Home and Community-Based Services Providers Licensing Standards (LAC 48:I.5038)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 48:I.5038 as authorized by R.S. 36:254 and R.S. 40:2120.2. 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 promulgated an Emergency Rule which amended the provisions governing the licensing standards for home and community-based services (HCBS) providers in order to adopt provisions to allow licensed HCBS providers to operate and provide services outside of their licensed geographic areas to existing clients who have evacuated or temporarily relocated to another location in the state due to a gubernatorial declared state of emergency or disaster in Louisiana (*Louisiana Register*, Volume 46, Number 10). This proposed Rule is being promulgated in order to continue the provisions of the September 21, 2020 Emergency Rule.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 50. Home and Community-Based Services Providers Licensing Standards Subchapter C. Admission, Transfer and Discharge Criteria

§5038. Provisions for Services to Clients Outside of Licensed Geographic Area in Event of a Gubernatorial Declared State of Emergency or Disaster

A. To ensure the health and safety of clients, and the coordination and continuation of services to clients, during a gubernatorial declared state of emergency or disaster in Louisiana, the department, through written notice sent electronically to licensed HCBS providers, may allow a licensed HCBS provider to operate and provide services to existing clients who are receiving personal care services and respite services and who have evacuated or temporarily relocated to another location in the state when the following apply:

1. the client has evacuated or temporarily relocated to a location outside of the provider's licensed region due to the declared state of emergency or disaster;

2. the client shall have been a client of the HCBS provider as of the date of the declared emergency or disaster, with an approved plan of care;

3. the client's existing caregiver(s) go with the client or provide services to the client at the client's temporary location;

4. the provider is responsible for ensuring that all essential care and services, in accordance with the plan of care, are provided to the client, and the provider shall have sufficient staff and back-up caregivers available to provide services; and

5. the provider shall not interfere with the client's right to choose a provider of his/her choice if the client elects a new HCBS provider in the area where the client relocates. The provider shall facilitate client's selection.

B. The provisions of this Section shall not apply to providers of center based respite services.

C. To ensure the health and safety of clients, and the coordination and continuation of services to clients, during a gubernatorial declared state of emergency or disaster in Louisiana, the department, through written notice sent electronically to licensed HCBS providers, may allow a licensed HCBS provider to operate and provide services to existing clients who are receiving supervised independent living services (SIL) and who have evacuated or temporarily relocated to another location in the state when the following apply:

1. the client has evacuated or temporarily relocated to a location outside of the provider's licensed region due to the declared state of emergency or disaster;

2. the client shall have been a client of the HCBS provider as of the declared state of emergency or disaster, with an approved plan of care;

3. the provider has sufficient and qualified staff to provide SIL services at the client's temporary location;

4. the provider is responsible for ensuring that all essential SIL services, in accordance with the plan of care, are provided to the client; and

5. the provider shall not interfere with the client's right to choose a provider of his/her choice if the client elects a new HCBS provider in the area where the client relocates. The provider shall facilitate client's selection.

D. Under the provisions of this Section, the department's initial written notice to licensed HCBS providers to authorize these allowances shall be for a period not to exceed 45 days. The department may extend this initial period, not to exceed an additional 45 days, upon written notice sent electronically to the licensed HCBS providers.

E. Under the provisions of this Section, the department in its discretion may authorize these allowances statewide or to certain affected parishes.

F. An HCBS provider who wants to provide services to a client that has temporarily relocated out of state must contact that state's licensing/certification department to obtain any necessary licensing and/or certification before providing services in that state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 47:

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 assuring continued access to home and community-based services during a declared emergency or disaster.

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 a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by assuring continued access to home and community-based services during a declared emergency or disaster.

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 may have a positive impact on small businesses, as described in R.S. 49:965.2 et seq. as it will allow them to continue to provide home and community-based services during a declared emergency or disaster.

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, and will have a positive impact on the provider's ability to provide the same level of service during a declared emergency or disaster as described in HCR 170.

Public Comments

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on November 29, 2020.

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 November 9, 2020. 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 November 24, 2020 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 November 9 2020. 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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Home and Community-Based Services Providers—Licensing Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 20-21. It is anticipated that \$756 will be expended in FY 20-21 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections since the licensing fees, in the same amounts, will continue to be collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the September 21, 2020 Emergency Rule which adopted provisions to allow licensed home and community-based services (HCBS) providers to operate outside of their licensed geographic areas to existing clients who have evacuated or temporarily relocated to another location in the state due to a gubernatorial declared state of emergency or disaster in Louisiana. This Rule will have a positive impact on clients by assuring continued access to home and community-based services during a declared emergency or disaster. This proposed rule may be beneficial to small businesses and providers by allowing them to continue to provide services during a declared emergency or disaster. It is anticipated that implementation of this proposed rule will not result in costs to the State or to HCBS providers for FY 20-21, FY 21-22 and FY 22-23.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Ruth Johnson
Medicaid Executive Director
2010#045

Christopher A. Keaton
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Professional Services Program (LAC 50:IX: Chapters 3-9)

The Department of Health, Bureau of Health Services Financing proposes to repeal LAC 50:IX:Chapter 3 and Chapter 5 and to amend LAC 50:IX:Chapter 6 through Chapter 9 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 proposes to amend the provisions governing the Professional Services Program in order to remove specific clinical information and procedural language from the administrative Rule to reflect current practices and ensure that the provisions are promulgated clearly and accurately in the *Louisiana Administrative Code*.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 1. General Provisions

Chapter 3. Concurrent Care

§305. Inpatient Concurrent Care

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 33:463 (March 2007), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:

Chapter 5. Inpatient Physician Services

§501. Inpatient Physician Services

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, Bureau of Health Services Financing, LR 36:68 (January 2010), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:

Chapter 6. Outpatient Physician Services

§601. General Provisions

A. The Medicaid Program provides coverage and reimbursement for outpatient physician visits. There shall be no limits placed on the number of physician visits payable by the Medicaid Program for eligible beneficiaries.

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 41:2652 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

Chapter 7. Diabetes Education Services

§701. General Provisions

A. Effective for dates of service on or after February 20, 2011, the Medicaid Program provides coverage of diabetes self-management training (DSMT) services rendered to Medicaid beneficiaries diagnosed with diabetes mellitus.

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 39:2509 (September 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

§703. Scope of Services

A. DSMT shall consist of individual and group instruction on diabetes self-management.

B. 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, Bureau of Health Services Financing, LR



State of Louisiana

Louisiana Department of Health
Office of the Secretary

December 10, 2020

Via Statutorily Prescribed Email

To: The Honorable Fred H. Mills, Jr., Chairman, Senate Health & Welfare Committee
The Honorable Larry Bagley, Chairman, House Health & Welfare Committee

From: Dr. Courtney N. Phillips
Secretary

A handwritten signature in cursive script, appearing to read "Courtney N. Phillips".

Re: Second Report on Proposed Amendments to LAC 50:IX.Chapters 3-9 –
Professional Services Program

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Professional Services Program rule amendment.

A Notice of Intent on the proposed amendments was published in the October 20, 2020 issue of the *Louisiana Register* (LR 46:1444). No written comments were received and there was no request for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the October 20, 2020, Notice of Intent when it is published as a final rule in the January 20, 2021, issue of the *Louisiana Register*.

Please contact Marcus Bachhuber, MD, at marcus.bachhuber@la.gov, if you have any questions or require additional information about this matter.

Cc: Kelly Zimmerman, LDH Interim Medicaid Deputy Director
Jennifer Katzman, LDH Interim Senior Staff Advisor
Marcus Bachhuber, MD, LDH Medicaid Program Manager
Veronica Dent, LDH Medicaid Program Manager
Anita Dupuy, LDH Legislative Liaison
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

~~Main Streets (eater 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~~

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: ~~Home and Community-Based Services Providers—Licensing Standards~~

~~I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)~~

~~It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 20 21. It is anticipated that \$756 will be expended in FY 20 21 for the state's administrative expense for promulgation of this proposed rule and the final rule.~~

~~II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)~~

~~It is anticipated that the implementation of this proposed rule will not affect federal revenue collections since the licensing fees, in the same amounts, will continue to be collected.~~

~~III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)~~

~~This proposed Rule continues the provisions of the September 21, 2020 Emergency Rule which adopted provisions to allow licensed home and community-based services (HCBS) providers to operate outside of their licensed geographic areas to existing clients who have evacuated or temporarily relocated to another location in the state due to a gubernatorial declared state of emergency or disaster in Louisiana. This Rule will have a positive impact on clients by assuring continued access to home and community-based services during a declared emergency or disaster. This proposed rule may be beneficial to small businesses and providers by allowing them to continue to provide services during a declared emergency or disaster. It is anticipated that implementation of this proposed rule will not result in costs to the State or to HCBS providers for FY 20 21, FY 21 22 and FY 22 23.~~

~~IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)~~

~~This rule has no known effect on competition and employment.~~

~~Ruth Johnson
Medicaid Executive Director
2010#045~~

~~Christopher A. Keaton
Legislative Fiscal Officer
Legislative Fiscal Office~~

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Professional Services Program (LAC 50:IX.Chapters 3-9)

The Department of Health, Bureau of Health Services Financing proposes to repeal LAC 50:IX.Chapter 3 and Chapter 5 and to amend LAC 50:IX.Chapter 6 through Chapter 9 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 proposes to amend the provisions governing the Professional Services Program in order to remove specific clinical information and procedural language from the administrative Rule to reflect current practices and ensure that the provisions are promulgated clearly and accurately in the *Louisiana Administrative Code*.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 1. General Provisions

Chapter 3. Concurrent Care

§305. Inpatient Concurrent Care

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 33:463 (March 2007), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:

Chapter 5. Inpatient Physician Services

§501. Inpatient Physician Services

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, Bureau of Health Services Financing, LR 36:68 (January 2010), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:

Chapter 6. Outpatient Physician Services

§601. General Provisions

A. The Medicaid Program provides coverage and reimbursement for outpatient physician visits. There shall be no limits placed on the number of physician visits payable by the Medicaid Program for eligible beneficiaries.

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 41:2652 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

Chapter 7. Diabetes Education Services

§701. General Provisions

A. Effective for dates of service on or after February 20, 2011, the Medicaid Program provides coverage of diabetes self-management training (DSMT) services rendered to Medicaid beneficiaries diagnosed with diabetes mellitus.

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 39:2509 (September 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

§703. Scope of Services

A. DSMT shall consist of individual and group instruction on diabetes self-management.

B. 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, Bureau of Health Services Financing, LR

39:2509 (September 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

§705. Provider Participation

A. To receive reimbursement, members of the DSMT instructional team must be either employed by or have a contract with, a Medicaid-enrolled professional services provider that will submit the claims for reimbursement of DSMT services rendered by the team.

A.1. - C. 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, Bureau of Health Services Financing, LR 39:2510 (September 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

Chapter 9. Fluoride Varnish Application Services

§901. General Provisions

A. Effective for dates of service on or after December 1, 2011, the Medicaid Program provides coverage of fluoride varnish application services to beneficiaries under the age of 21.

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 40:315 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

§903. Scope of Services

A. ...

B. 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, Bureau of Health Services Financing, LR 40:315 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

§905. Provider Participation

A. The entity seeking reimbursement for fluoride varnish application services must be an enrolled Medicaid provider.

A.1. - 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, Bureau of Health Services Financing, LR 40:315 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1524 (September 2016), LR 47:

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, 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 Ruth Johnson, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Johnson is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on November 29, 2020.

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 November 9, 2020. 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 November 24, 2020 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 November 9, 2020. 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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Professional Services Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 20-21. It is anticipated that \$864 (\$432 SGF and \$432 FED) will be expended in FY 20-21 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 20-21. It is anticipated that \$432 will be collected in FY 20-21 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing the Professional Services Program in order to remove specific clinical information and procedural language from the administrative Rule to reflect current practices and ensure that the provisions are promulgated clearly and accurately in the Louisiana Administrative Code. It is anticipated that implementation of this proposed rule will not result in costs to the Professional Services Program in FY 20-21, FY 21-22 and FY 22-23, but will be beneficial by providing accurate, clearly identified program requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Ruth Johnson
Medicaid Executive Director
2010#046

Christopher A. Keaton
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

**Professional Services Program—Immunizations
(LAC 50:IX.Chapter 83 and Chapter 85)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:IX.Chapter 83 and Chapter 85 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 proposes to amend the provisions governing immunizations in the Professional Services Program in order to ensure that the language in the administrative Rule reflects current practices and is promulgated clearly and accurately in the *Louisiana Administrative Code*.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 7. Immunizations

Chapter 83. Children's Immunizations

§8301. General Provisions

A. The Medicaid Program shall provide coverage for the administration of childhood and adolescent vaccines recommended by the Advisory Committee on Immunization Practices and available through the Louisiana Immunization Program/Vaccines for Children Program.

B. To qualify for Medicaid reimbursement for vaccine administration, a provider must be:

1. a licensed health care provider who has the authority under Louisiana state law to administer childhood and adolescent vaccines;

~~2. ...~~

~~3. an enrolled Louisiana Immunization Program/Vaccines for Children Program provider.~~

~~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 35:70 (January 2009) amended by the Department of Health, Bureau of Health Services Financing LR 47:§8305. Reimbursement Methodology~~

~~A. There shall be no reimbursement for the cost of vaccines that are available from the Louisiana Immunization Program/Vaccines for Children Program.~~

~~1. Repealed.~~

~~B. For vaccine administration, providers shall be reimbursed according to the established fee schedule or billed charges, whichever is the lesser amount.~~

~~C. The reimbursement for the administration of childhood and adolescent vaccines shall be 90 percent of the 2008 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated. The reimbursement shall not exceed the maximum regional charge for vaccine administration as determined by the Centers for Medicare and Medicaid Services (CMS).~~

~~1. The reimbursement shall remain the same for those vaccine administration services that are currently being reimbursed at a rate that is between 90 percent and 120 percent of the 2008 Louisiana Medicare Region 99 allowable, but not to exceed the maximum regional charge for vaccine administration as determined by CMS.~~

~~C.2. D.4. 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 35:71 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:96 (January 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1289 (July 2015), amended by the Department of Health, Bureau of Health Services Financing LR 47:~~

~~**Chapter 85. Other Immunizations**~~

~~**§8501. General Provisions**~~

~~A. The Medicaid Program shall provide coverage for vaccines recommended by the Advisory Committee on Immunization Practices for beneficiaries age 19 and older.~~

~~1. 3. Repealed.~~

~~B. To qualify for Medicaid reimbursement for the vaccine and vaccine administration, a provider must be a licensed health care provider who has the authority under Louisiana state law to administer vaccines and be an enrolled Medicaid provider.~~

~~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 34:1035 (June 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 47:~~

~~**§8503. Coverage Restrictions**~~

~~Repealed.~~

~~AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.~~



State of Louisiana

Louisiana Department of Health
Office of the Secretary

December 10, 2020

Via Statutorily Prescribed Email

To: The Honorable Fred H. Mills, Jr., Chairman, Senate Health & Welfare Committee
The Honorable Larry Bagley, Chairman, House Health & Welfare Committee

From: Dr. Courtney N. Phillips
Secretary

A handwritten signature in black ink, appearing to read "Courtney N. Phillips".

Re: Second Report on Proposed Amendments to LAC 50:IX.Chapters 83 and 85 –
Professional Services Program – Immunizations

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Federally Qualified Health Centers rule amendment.

A Notice of Intent on the proposed amendments was published in the October 20, 2020 issue of the *Louisiana Register* (LR 46:1446). No written comments were received and there was no request for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the October 20, 2020, Notice of Intent when it is published as a final rule in the January 20, 2021, issue of the *Louisiana Register*.

Please contact Marcus Bachhuber, MD, at marcus.bachhuber@la.gov, if you have any questions or require additional information about this matter.

Cc: Kelly Zimmerman, LDH Interim Deputy Medicaid Director
Jennifer Katzman, LDH Interim Senior Staff Advisor
Marcus Bachhuber, MD, LDH Medicaid Program Manager
Veronica Dent, LDH Medicaid Program Manager
Anita Dupuy, LDH Legislative Liaison
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

~~It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 20-21. It is anticipated that \$432 will be collected in FY 20-21 for the federal share of the expense for promulgation of this proposed rule and the final rule.~~

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

~~This proposed rule amends the provisions governing the Professional Services Program in order to remove specific clinical information and procedural language from the administrative Rule to reflect current practices and ensure that the provisions are promulgated clearly and accurately in the Louisiana Administrative Code. It is anticipated that implementation of this proposed rule will not result in costs to the Professional Services Program in FY 20-21, FY 21-22 and FY 22-23, but will be beneficial by providing accurate, clearly identified program requirements.~~

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

~~This rule has no known effect on competition and employment.~~

Ruth Johnson
Medicaid Executive Director
2010#046

Christopher A. Keaton
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

**Professional Services Program—Immunizations
(LAC 50:IX.Chapter 83 and Chapter 85)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:IX.Chapter 83 and Chapter 85 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 proposes to amend the provisions governing immunizations in the Professional Services Program in order to ensure that the language in the administrative Rule reflects current practices and is promulgated clearly and accurately in the *Louisiana Administrative Code*.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 7. Immunizations

Chapter 83. Children's Immunizations

§8301. General Provisions

A. The Medicaid Program shall provide coverage for the administration of childhood and adolescent vaccines recommended by the Advisory Committee on Immunization Practices and available through the Louisiana Immunization Program/Vaccines for Children Program.

B. To qualify for Medicaid reimbursement for vaccine administration, a provider must be:

1. a licensed health care provider who has the authority under Louisiana state law to administer childhood and adolescent vaccines;

2. ...

3. an enrolled Louisiana Immunization Program/Vaccines for Children Program provider.

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 35:70 (January 2009) amended by the Department of Health, Bureau of Health Services Financing LR 47:

§8305. Reimbursement Methodology

A. There shall be no reimbursement for the cost of vaccines that are available from the Louisiana Immunization Program/Vaccines for Children Program.

1. Repealed.

B. For vaccine administration, providers shall be reimbursed according to the established fee schedule or billed charges, whichever is the lesser amount.

C. The reimbursement for the administration of childhood and adolescent vaccines shall be 90 percent of the 2008 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated. The reimbursement shall not exceed the maximum regional charge for vaccine administration as determined by the Centers for Medicare and Medicaid Services (CMS).

1. The reimbursement shall remain the same for those vaccine administration services that are currently being reimbursed at a rate that is between 90 percent and 120 percent of the 2008 Louisiana Medicare Region 99 allowable, but not to exceed the maximum regional charge for vaccine administration as determined by CMS.

C.2. - D.4. 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 35:71 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:96 (January 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1289 (July 2015), amended by the Department of Health, Bureau of Health Services Financing LR 47:

Chapter 85. Other Immunizations

§8501. General Provisions

A. The Medicaid Program shall provide coverage for vaccines recommended by the Advisory Committee on Immunization Practices for beneficiaries age 19 and older.

1. - 3. Repealed.

B. To qualify for Medicaid reimbursement for the vaccine and vaccine administration, a provider must be a licensed health care provider who has the authority under Louisiana state law to administer vaccines and be an enrolled Medicaid provider.

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 34:1035 (June 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

§8503. Coverage Restrictions

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 34:1035 (June 2008), repealed by the Department of Health, Bureau of Health Services Financing, LR 47:

§8505. Reimbursement Methodology

A. For the vaccine and vaccine administration, providers shall be reimbursed according to the established fee schedule or billed charges, whichever is the lesser amount.

B. The reimbursement methodology for the vaccine is as a physician-administered drug under the provisions of LAC 50:XXIX.949.

B.1. - B.3.a Repealed.

C. The reimbursement methodology for vaccine administration for beneficiaries age 19 and older is the same as for beneficiaries younger than 19 years old under the provisions of §8305 of this part.

C.1. - C.4 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, Bureau of Health Services Financing and the Office of Public Health, LR 39:97 (January 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1290 (July 2015), amended by the Department of Health, Bureau of Health Services Financing LR 47:

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, 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 Ruth Johnson, Bureau of Health Services Financing, P.O. Box

91030, Baton Rouge, LA 70821-9030. Ms. Johnson is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on November 29, 2020.

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 November 9, 2020. 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 November 24, 2020 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 November 9, 2020. 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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Professional Services Program Immunizations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 20-21. It is anticipated that \$864 (\$432 SGF and \$432 FED) will be expended in FY 20-21 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 20-21. It is anticipated that \$432 will be collected in FY 20-21 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing immunizations in the Professional Services Program in order to ensure that the language in the administrative Rule reflects current practices and is promulgated clearly and accurately in the Louisiana Administrative Code. It is anticipated that implementation of this proposed rule will not result in costs to the Professional Services Program in FY 20-21, FY 21-22 and FY 22-23, but will be beneficial by providing accurate and clearly identified program requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Ruth Johnson
Medicaid Executive Director
2010#047

Christopher A. Keaton
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Rural Health Clinics (LAC 50:XI.16301, 16303, 16503, and 16701)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XI.16301, §16303, §16503, and §16701 in the Medical Assistant 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 proposes to amend the provisions governing rural health clinics to ensure the language reflects current practices and is promulgated clearly and accurately in the *Louisiana Administrative Code* and to remove procedural language from the administrative Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 15. Rural Health Clinics

Chapter 163. Services

§16301. Scope of Services

{Formerly §16501}

A. A.5. ...

B. The department shall provide coverage of diabetes self-management training services rendered to Medicaid beneficiaries diagnosed with diabetes mellitus.

1. Repealed.

C. The department shall provide coverage for fluoride varnish applications performed in the RHC.

1. 2.b. 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 32:1905 (October 2006), repromulgated LR 32:2267 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2632 (September 2011), LR 40:83 (January 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1524 (September 2016), LR 47:

§16303. Service Limits

{Formerly §16503}

A. There shall be no limits placed on rural health clinic visits (encounters) payable by the Medicaid program for eligible beneficiaries.

B. B.1. 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 32:1905 (October 2006), repromulgated LR 32:2267 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2632 (September 2011), LR 41:2653 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

Chapter 165. Provider Participation {Formerly Chapter 163}

§16503. Standards for Participation {Formerly §16303}

A. A.1. ...

2. retain all records necessary to fully disclose the extent of services provided to beneficiaries for five years from the date of service and furnish such records, and any payments claimed for providing such services, to the Medicaid Program upon request; and

A.3. B. ...

C. D.3. 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 32:1905 (October 2006), repromulgated LR 32:2267 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2632 (September 2011), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

Chapter 167. Reimbursement Methodology

§16701. Prospective Payment System

A. B.4. ...

a. Fluoride varnish applications shall only be reimbursed to the RHC when performed on the same date of service as an office visit or preventive screening. Separate encounters for fluoride varnish services are not permitted and the application of fluoride varnish does not constitute an encounter visit.

C. 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 of the Secretary, Bureau of Health Services Financing, LR 32:1905 (October 2006), repromulgated LR 32:2267 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2632 (September 2011), LR 40:83 (January 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

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



State of Louisiana
Louisiana Department of Health
Office of the Secretary

December 10, 2020

Via Statutorily Prescribed Email

To: The Honorable Fred H. Mills, Jr., Chairman, Senate Health & Welfare Committee
The Honorable Larry Bagley, Chairman, House Health & Welfare Committee

From: Dr. Courtney N. Phillips
Secretary

A handwritten signature in black ink, appearing to read "Courtney Phillips".

Re: Second Report on Proposed Amendments to LAC 50:XI.Subpart 15.16301, 16303, 16503, and 16701 – Rural Health Clinics

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Rural Health Clinics rule amendment.

A Notice of Intent on the proposed amendments was published in the October 20, 2020 issue of the *Louisiana Register* (LR 46:1448). No written comments were received and there was no request for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the October 20, 2020, Notice of Intent when it is published as a final rule in the January 20, 2021, issue of the *Louisiana Register*.

Please contact Marcus Bachhuber, MD, at marcus.bachhuber@la.gov, if you have any questions or require additional information about this matter.

Cc: Kelly Zimmerman, LDH Interim Deputy Medicaid Director
Jennifer Katzman, LDH Interim Senior Staff Advisor
Marcus Bachhuber, MD, LDH Medicaid Program Manager
Veronica Dent, LDH Medicaid Program Manager
Anita Dupuy, LDH Legislative Liaison
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

~~This rule has no known effect on competition and employment.~~

Ruth Johnson
Medicaid Executive Director
2010#047

Christopher A. Keaton
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

**Rural Health Clinics
(LAC 50:XI.16301,16303,16503, and 16701)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XI.16301, §16303, §16503, and §16701 in the Medical Assistant 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 proposes to amend the provisions governing rural health clinics to ensure the language reflects current practices and is promulgated clearly and accurately in the *Louisiana Administrative Code* and to remove procedural language from the administrative Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 15. Rural Health Clinics

Chapter 163. Services

§16301. Scope of Services

[Formerly §16501]

A. - A.5. ...

B. The department shall provide coverage of diabetes self-management training services rendered to Medicaid beneficiaries diagnosed with diabetes mellitus.

1. Repealed.

C. The department shall provide coverage for fluoride varnish applications performed in the RHC.

1. - 2.b. 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 32:1905 (October 2006), repromulgated LR 32:2267 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2631 (September 2011), LR 40:83 (January 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1524 (September 2016), LR 47:

§16303. Service Limits

[Formerly §16503]

A. There shall be no limits placed on rural health clinic visits (encounters) payable by the Medicaid program for eligible beneficiaries.

B. - B.1. 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 32:1905 (October 2006), repromulgated LR 32:2267 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2632 (September 2011), LR 41:2653 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

**Chapter 165. Provider Participation
[Formerly Chapter 163]**

**§16503. Standards for Participation
[Formerly §16303]**

A. - A.1. ...

2. retain all records necessary to fully disclose the extent of services provided to beneficiaries for five years from the date of service and furnish such records, and any payments claimed for providing such services, to the Medicaid Program upon request; and

A.3. - B. ...

C. - D.3. 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 32:1905 (October 2006), repromulgated LR 32:2267 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2632 (September 2011), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

**Chapter 167. Reimbursement Methodology
§16701. Prospective Payment System**

A. - B.4. ...

a. Fluoride varnish applications shall only be reimbursed to the RHC when performed on the same date of service as an office visit or preventive screening. Separate encounters for fluoride varnish services are not permitted and the application of fluoride varnish does not constitute an encounter visit.

C. - 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 of the Secretary, Bureau of Health Services Financing, LR 32:1905 (October 2006), repromulgated LR 32:2267 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2632 (September 2011), LR 40:83 (January 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

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, 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 Ruth Johnson, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Johnson is responsible for responding to this proposed Rule. The deadline for submitting written comments is at close of business, 4:30 p.m., on November 29, 2020.

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 November 9, 2020. 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 November 24, 2020 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 November 9, 2020. 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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Rural Health Clinics

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 20-21. It is anticipated that \$756 (\$378 SGF and \$378 FED) will be expended in FY 20-21

for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 20-21. It is anticipated that \$378 will be collected in FY 20-21 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing rural health clinics to ensure the language reflects current practices and is promulgated clearly and accurately in the Louisiana Administrative Code and to remove procedural language from the administrative Rule. This rule is anticipated to have no impact on recipients. It is anticipated that implementation of this proposed rule will not result in any economic impact to Medicaid providers or small businesses in FY 20-21, 21-22, and 22-23, but will be beneficial in ensuring that the provisions are presented clearly and accurately.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Ruth Johnson
Medicaid Executive Director
2010#048

Christopher A. Keaton
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Office of Public Health

Public Health—Sanitary Code Disease Reporting Requirements (LAC 51:II.105 and 107)

~~Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the state health officer, acting through the Louisiana Department of Health, Office of Public Health (LDH-OPH), intends to reenact and amend §105 and 107 of Part II of Title 51 (Public Health—Sanitary Code) of the Louisiana Administrative Code. This proposed rule is being proposed to include COVID-19 in the list of diseases and conditions hereby declared reportable as a Class A Disease or Condition.~~

~~For the reasons set forth above, the following proposed additions and amendments to Title 51 (Public Health—Sanitary Code) are hereby proposed to be adopted.~~

Title 51

PUBLIC HEALTH—SANITARY CODE

Part II. The Control of Diseases

Chapter 1. Disease Reporting Requirements

§105. Reportable Diseases and Conditions {formerly paragraph 2:003}

A. D.I.a.x. ...

- ~~xi. Coronavirus Disease 2019 (COVID-19)/Infections with SARS CoV-2;~~
- ~~xii. diphtheria;~~
- ~~xiii. Enterobacteriaceae, carbapenem-resistant;~~