



**State of Louisiana**  
Louisiana Department of Health  
Office of the Secretary

March 6, 2017

**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 Applied Behavior Analysis-Based Therapy Services - Reimbursement Rate Realignment.

The Department published a Notice of Intent on this proposed Rule in the December 20, 2016 issue of the *Louisiana Register* (Volume 42, Number 12). A public hearing was held on January 26, 2017 at which only Louisiana Department of Health staff were present. No oral testimony was given. However, written correspondence was received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the April 20, 2017 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification;
3. the public hearing attendance roster;
4. summary of all written comments received by the agency;
5. the agency's response to comments from Roby Chavez and Christopher Roe; and
6. the agency's response to comments from Jonathan Trunnell.

REG/WJR/CEC

Attachments (6)

NOTICE OF INTENT

Department of Health  
Bureau of Health Services Financing

Applied Behavior Analysis-Based Therapy Services  
Reimbursement Rate Realignment  
(LAC 50:XV.703)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XV.703 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 adopted provisions to establish coverage and reimbursement for applied behavior analysis (ABA)-based therapy services under the Medicaid State Plan in order to ensure continued, long-lasting access to ABA-based therapy services for Chisholm class members and other children under the age of 21 (*Louisiana Register*, Volume 41, Number 5).

The Department of Health, Bureau of Health Services Financing, promulgated an Emergency Rule which amended the reimbursement methodology governing ABA-based therapy services in order to realign the reimbursement rates to be consistent with the commercial rates for these services which will be in effect statewide in January 2017 (*Louisiana Register*, Volume 42, Number 12). This proposed Rule is being promulgated to continue

the provisions of the January 1, 2017 Emergency Rule.

**Title 50**

**PUBLIC HEALTH-MEDICAL ASSISTANCE**

**Part XV. Services for Special Populations**

**Subpart 1. Applied Behavior Analysis-Based Therapy Services**

**Chapter 7. Reimbursements**

**§703. Reimbursement Methodology**

A. Reimbursement for ABA-based therapy services shall be based upon a percentage of the commercial rates for ABA-based therapy services in the state of Louisiana.

B. Effective for dates of service on or after January 1, 2017, ABA rates and codes in effect on December 31, 2016 will be realigned to be consistent with the commercial rates in the state related to these codes which go into effect statewide on January 1, 2017.

1. Prior authorizations already in effect on the promulgation date of these provisions will be honored. Those services shall be paid at the rate in effect on December 31, 2016.

2. New prior authorizations with a begin date after the promulgation date of these provisions must use the codes in effect prior to January 1, 2017 for those services provided and to be delivered prior to January 1, 2017, and for any services provided after January 1, 2017, the codes in effect on January 1, 2017 must be used.

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 41:928 (May 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

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.

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 (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the

provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may increase direct or indirect cost to the provider to provide the same level of service due to the realignment with commercial rates which may reduce Medicaid payments for these services. 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 reduction in 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 Thursday, January 26, 2017 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  
Bureau of Health Services Financing

**PUBLIC HEARING CERTIFICATION**  
**January 26, 2017**  
**9:30 a.m.**

RE: Applied Behavior Analysis-Based Therapy Services  
Reimbursement Rate Realignment  
Docket # 01262017-01  
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 January 26, 2017 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

Medicaid Policy and Compliance  
Section

01/26/17

Date

# DHH/BHSF PUBLIC HEARING

## Topic - Applied Behavior Analysis-Based Therapy Services Reimbursement Rate Realignment

Date - January 26, 2017

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Carol Rumbaia	628 N 4th Baton Rouge LA 70802	225 342 6943	LDH
2. RENE HUFF	628 N 4th Baton Rouge LA 70802	225 342 3936	LDH
3. Kelley Frounau	"	225 - 342 - 8108	LDH
4.			
5.			
6.			





**State of Louisiana**  
Louisiana Department of Health  
Office of the Secretary

March 6, 2017

Roby Chavez  
Christopher Roe  
5419 Dayna Ct  
New Orleans, LA 70124

Dear Ms. Chavez and Mr. Roe:

**RE: Applied Behavior Analysis-Based Therapy Services Emergency Rule and Notice of Intent**

This letter is in response to your correspondence dated December 14, 2016 regarding the above-referenced Emergency Rule and Notice of Intent that were published in the December 20, 2016 edition of the *Louisiana Register*. We have reviewed your comments and given consideration to the concerns expressed regarding the Emergency Rule and proposed Rule.

The Emergency Rule and Notice of Intent amend the provisions governing the reimbursement methodology governing Applied Behavior Analysis-Based (ABA) Therapy services to realign the reimbursement rates to be consistent with the commercial rates for these services which went into effect statewide in January 2017.

The Louisiana Department of Health (LDH) recognizes that ABA therapy is a very important service to children with Autism Spectrum Disorder (ASD) and related disorders; therefore, we share your concerns about the rate realignments and will continue to consider all options as we develop cost-containment measures to meet economic challenges and promote programmatic sustainability as we strive to avoid budget deficits in the Medicaid Program.

The Department initially set rates at 100 percent of the rates and codes BlueCross BlueShield (BCBS) had in place in 2013. However, in 2013, there were no national standard codes and very little information regarding rates for the services, hence we adopted what BCBS, the largest insurer in the state, was using for their coverage of ABA.

When BCBS adopted the new ABA-specific national codes, it was imperative that the Department do the same, as we no longer could base our rates on their 2013 rates and codes if they no longer existed. Not doing so would have led to the Medicaid Program paying higher rates for ABA services than the largest commercial insurer in the state, and families dropping private insurance coverage to access Medicaid.

On February 13, 2017, Louisiana Medicaid added a new modifier to the fee schedule for ABA services to allow payment for therapy delivered by a line technician with a bachelor's degree; BCBS had previously adopted this modifier and rate. Along with these new codes, group training and parent training services were added, making more services available to families with children who are diagnosed with ASD.

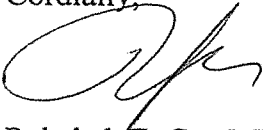
It is also worthy of noting that ABA providers are continuing to enroll in the Medicaid Program and provide services for children with ASD and related disorders even after the rate and code changes have been implemented.

In your correspondence, you also raised concerns that the Department's actions would effectively negate the intent of Act 648; however, the provisions of Act 648 do not govern the administration of the Louisiana Medicaid program. The Medicaid Program is regulated through a contractual relationship with the Federal government under the authority of approved Medicaid State Plans which provide for the coverage of ABA services through the Medicaid benefit for children.

I would like to thank you for taking the time to provide comments and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana children and foster programmatic sustainability for Medicaid benefits and services.

Should you have additional questions or comments regarding Medicaid administrative rulemaking activity, you may contact Veronica Dent, Medicaid Program Manager, at 225-342-3238 or by email to [Veronica.Dent@la.gov](mailto:Veronica.Dent@la.gov).

Cordially,



Rebekah E. Gee MD, MPH  
Secretary  
Louisiana Department of Health

REG/JS/DAB

c: Lou Ann Owen  
Rene Huff



**State of Louisiana**  
Louisiana Department of Health  
Bureau of Health Services Financing

March 6, 2017

Jonathan Trunnell  
Advocacy Center  
8325 Oak Street  
New Orleans, LA 70118

Dear Mr. Trunnell:

**RE: Applied Behavior Analysis-Based Therapy Services Emergency Rule and Notice of Intent**

This letter is in response to your correspondence dated December 20, 2016 regarding the above-referenced Emergency Rule and Notice of Intent that were published in the December 20, 2016 edition of the *Louisiana Register*. We have reviewed your comments and given consideration to the concerns expressed regarding the Emergency Rule and proposed Rule.

The Emergency Rule and Notice of Intent amend the provisions governing the reimbursement methodology governing Applied Behavior Analysis-Based (ABA) Therapy services to realign the reimbursement rates to be consistent with the commercial rates for these services which went into effect statewide in January 2017.

The Louisiana Department of Health (LDH) recognizes that ABA therapy is a very important service to children with Autism Spectrum Disorder (ASD) and related disorders; therefore, we share your concerns about the rate realignments and will continue to consider all options as we develop cost-containment measures to meet economic challenges and promote programmatic sustainability as we strive to avoid budget deficits in the Medicaid Program.

The Department initially set rates at 100 percent of the rates and codes BlueCross BlueShield (BCBS) had in place in 2013. However, in 2013, there were no national standard codes and very little information regarding rates for the services, hence we adopted what BCBS, the largest insurer in the state, was using for their coverage of ABA.

When BCBS adopted the new ABA-specific national codes, it was imperative that the Department do the same, as we no longer could base our rates on their 2013 rates and codes if they no longer existed. Not doing so would have led to the Medicaid Program paying higher rates for ABA services than the largest commercial insurer in the state, and families dropping private insurance coverage to access Medicaid.


On February 13, 2017, Louisiana Medicaid added a new modifier (0364T HN and 0365T HN) to the fee schedule for ABA services to allow payment of \$23 per 30 minutes of direct therapy delivered by a line technician with a bachelor's degree. Along with these new codes, group training and parent training services were added, making more services available to families with children who are diagnosed with ASD.

It is also worthy of noting that ABA providers are continuing to enroll in Medicaid and provide services for children with ASD and related disorders even after the rate and code changes have been implemented.

I would like to thank you for taking the time to provide comments and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana children and foster programmatic sustainability for Medicaid benefits and services.

Should you have additional questions or comments regarding Medicaid administrative rulemaking activity, you may contact Veronica Dent, Medicaid Program Manager, at 225-342-3238 or by email to [Veronica.Dent@la.gov](mailto:Veronica.Dent@la.gov).

Sincerely,

  
Jen Steele  
Medicaid Director

JS/DAB

c: Lou Ann Owen  
Rene Huff



**State of Louisiana**  
Louisiana Department of Health  
Office of the Secretary

March 6, 2017

**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", written over the printed name of the 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 Intermediate Care Facilities for Persons with Intellectual Disabilities – Supplemental Payments.

The Department published a Notice of Intent on this proposed Rule in the January 20, 2016 issue of the *Louisiana Register* (Volume 43, Number 1). A public hearing was held on February 27, 2017 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 April 20, 2017 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/YE

Attachments (3)

NOTICE OF INTENT

Department of Health  
Bureau of Health Services Financing

Intermediate Care Facilities for Persons  
with Intellectual Disabilities  
Supplemental Payments  
(LAC 50:VII.32917)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:VII.32917 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 provides Medicaid reimbursement to non-state intermediate care facilities for persons with intellectual disabilities (ICFs/ID) for services rendered to Medicaid recipients.

The Department of Health and Hospitals, Bureau of Health Services Financing, promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for ICFs/ID in order to adopt provisions to establish supplemental Medicaid payments for services provided to Medicaid recipients residing in privately-owned facilities that enter into a cooperative endeavor agreement with the department (*Louisiana Register*, Volume 41, Number 8).

The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions of the

August 1, 2015 Emergency Rule to establish upper payment limits for supplemental payments to private intermediate care facilities entering into a cooperative endeavor agreement with the department to provide a privately operated living setting to residents discharging from Pinecrest Supports and Services Center, hereafter referred to as Pinecrest (*Louisiana Register*, Volume 42, Number 7). This proposed Rule is being promulgated to continue the provisions of the August 1, 2015 and July 20, 2016 Emergency Rules.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part VII. Long Term Care**

**Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities**

**Chapter 329. Reimbursement Methodology**

**Subchapter A. Non-State Facilities**

**§32917. Supplemental Payments**

A. Effective for dates of service on or after August 1, 2015, monthly supplemental payments shall be made to qualifying privately-owned intermediate care facilities for persons with intellectual disabilities.

1. In order to qualify for the supplemental payment, the private entity must enter into a cooperative endeavor agreement with the department.

B. Effective for dates of service on or after August 1, 2016, monthly supplemental payments shall be made to qualifying privately-

owned intermediate care facilities for persons with intellectual disabilities (ICFs/ID) to provide a privately operated living setting to residents discharging from Pinecrest Supports and Services Center.

1. In order to qualify for the supplemental payment, the private entity must enter into a cooperative endeavor agreement with the department to provide a privately operated living setting, with an end goal of increased community placement opportunities, to residents of Pinecrest who desire to discharge and have been deemed ready for discharge by their interdisciplinary teams, and meet the admission protocol/criteria of the contracted party but have not been successful in securing a placement with a private provider.

C. Supplemental payments for services rendered to Medicaid recipients shall not exceed the facility's upper payment limit (UPL) pursuant to 42 CFR 447.272. The UPL will be based on the Centers for Medicare and Medicaid Services' approved ICF transitional rate of \$329.26 including provider fee.

D. The supplemental payment will be the difference between the actual Medicaid payment and what would have been paid if the ICF/ID was paid up to the UPL amount.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

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.

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, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since this proposed Rule establishes supplemental payments

to providers for the same services they already render.

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 Monday, February 27, 2017 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

John Bel Edwards  
GOVERNOR



Rebekah E. Gee MD, MPH  
SECRETARY

**State of Louisiana**  
Louisiana Department of Health  
Bureau of Health Services Financing

**PUBLIC HEARING CERTIFICATION**  
February 27, 2017  
9:30 a.m.

RE: Intermediate Care Facilities for  
Persons with Intellectual Disabilities  
Supplemental Payments  
Docket # 02272017-01  
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 February 27, 2017 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

Medicaid Policy and Compliance  
Section

02/27/17

Date

# DHH/BHSF PUBLIC HEARING

## Topic - Intermediate Care Facilities for Persons with Intellectual Disabilities - Supplemental Payments

Date - February 27, 2017

### PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornette Scott	State of Louisiana 628 N. 4th Street Baton Rouge, LA 70802	825-342-3881	LDH Medicaid Policy & Compliance
2.			
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6.			



**State of Louisiana**  
Louisiana Department of Health  
Office of the Secretary

March 6, 2017

**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", is written over the printed name and title.

**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 Managed Care for Physical and Behavioral Health - Louisiana Health Insurance Premium Payment Program.

The Department published a Notice of Intent on this proposed Rule in the January 20, 2017 issue of the *Louisiana Register* (Volume 43, Number 1). A public hearing was held on February 27, 2017 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 April 20, 2017 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  
Bureau of Health Services Financing

Managed Care for Physical and Behavioral Health  
Louisiana Health Insurance Premium Payment Program  
(LAC 50:I.3103)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:I.3103 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 amended the provisions governing managed care for physical and behavioral health to provide clarification regarding the inclusion of non-emergency medical transportation services (*Louisiana Register*, Volume 42, Number 9).

The Department of Health, Bureau of Health Services Financing promulgated a Notice of Intent to reinstate the Louisiana Health Insurance Premium Payment Program (LaHIPP) in order to reduce Medicaid costs by establishing or maintaining a third party resource as the primary payer of the Medicaid beneficiary's medical expenses (*Louisiana Register*, Volume 43, Number 1). The LaHIPP population will not be included in managed care. This proposed Rule is being promulgated in order to exclude

LaHIPP participants from participation in managed care for physical and behavioral health.

Title 50  
PUBLIC HEALTH—MEDICAL ASSISTANCE  
Part I. Administration

Subpart 3. Managed Care for Physical and Behavioral Health

Chapter 31. General Provisions

§3103.

A. - G.

H. Participation Exclusion

1. The following Medicaid and/or CHIP recipients are excluded from participation in an MCO and cannot voluntarily enroll in an MCO. Individuals who:

a. - c. ...

d. have a limited period of eligibility and participate in either the Spend-Down Medically Needy Program or the Emergency Services Only program;

e. receive services through the Take Charge Plus program; or

f. are enrolled in the Louisiana Health Insurance Premium Payment (LaHIPP) Program.

I. ...

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 37:1573

(June 2011), amended LR 40:310 (February 2014), LR 40:1096 (June 2014), LR 40:2258 (November 2014), LR 41:929 (May 2015), LR 41:2363 (November 2015), LR 42:754 (May 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1522 (September 2016), LR 43:

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.

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 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 Monday, February 27, 2017 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

John Bel Edwards  
GOVERNOR



Rebekah E. Gee MD, MPH  
SECRETARY

**State of Louisiana**  
Louisiana Department of Health  
Bureau of Health Services Financing

**PUBLIC HEARING CERTIFICATION**  
**February 27, 2017**  
**9:30 a.m.**

RE: Managed Care for Physical and Behavioral Health  
Louisiana Health Insurance  
Premium Payment Program  
Docket # 02272017-02  
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 February 27, 2017 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in black ink, appearing to be "R. Gee", written over a horizontal line.

Medicaid Policy and Compliance  
Section

02/27/17  
Date

# DHH/BHSF PUBLIC HEARING

## Topic - Managed Care for Physical and Behavioral Health Louisiana Health Insurance Premium Payment Program

Date - February 27, 2017

### PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. <i>Corneille Scott</i>	<i>State of Louisiana 628 N. 4th Street Baton Rouge, LA 70802</i>	<i>225-342-3881</i>	<i>LDH Medicaid Policy &amp; Compliance</i>
2. <i>Shana Villa</i>	<i>Bo. Carter</i>	<i>225.922.5687</i>	<i>UNO / LDH</i>
3.			
4.			
5.			
6.			



**State of Louisiana**  
Louisiana Department of Health  
Office of the Secretary

March 6, 2017

**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 Medicaid Eligibility – Louisiana Health Insurance Premium Payment Program.

The Department published a Notice of Intent on this proposed Rule in the January 20, 2016 issue of the *Louisiana Register* (Volume 43, Number 1). A public hearing was held on February 27, 2017 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 April 20, 2017 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  
Bureau of Health Services Financing

Medicaid Eligibility  
Louisiana Health Insurance Premium Payment Program  
(LAC 50:III.2311)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:III.2311 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 terminated the Louisiana Health Insurance Premium Payment Program (LaHIPP) due to a budgetary shortfall which resulted in funding being removed from the executive budget in state fiscal year 2016. The department repealed the provisions of the June 20, 2009 Rule governing LaHIPP in order to facilitate the program termination (*Louisiana Register*, Volume 41, Number 11).

The Department of Health, Bureau of Health Services Financing has now determined that it is necessary to reinstate the LaHIPP program in order to reduce Medicaid costs by establishing or maintaining a third party resource as the primary payer of the Medicaid recipient's medical expenses.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 3. Eligibility Groups and Factors

Chapter 23. Eligibility Groups and Medicaid Programs

§2311. Louisiana Health Insurance Premium Payment Program

A. Section 1906 of Title XIX of the Social Security Act mandates that Medicaid recipients enroll, and maintain their enrollment, in cost-effective group health insurance plans as a condition of Medicaid eligibility if such a plan is available. In compliance with §1906, the department hereby establishes the Louisiana Health Insurance Premium Payment (LaHIPP) Program to provide Medicaid payment of the costs associated with the enrollment of recipients in cost-effective group health insurance plans.

B. Medicaid recipients shall be enrolled in LaHIPP when cost-effective health plans are available through the recipient's employer or a responsible party's employer-based health plan if the recipient is enrolled or eligible for such a health plan.

1. The enrollment period for the LaHIPP program shall be no less than six months.

C. When coverage for eligible family members is not possible unless ineligible family members are enrolled, the Medicaid Program will pay the premiums for the enrollment of other family members when it is cost-effective.

D. The recipient, or the individual acting on behalf of the recipient, shall cooperate to establish the availability and cost effectiveness of group health insurance.

1. Medicaid benefits of the parent may be terminated for failure to cooperate unless good cause for non-cooperation is established. Medicaid benefits for a child shall not be terminated due to the parent's or authorized representative's failure to cooperate.

E. Continued eligibility for this program is dependent upon the individual's ongoing eligibility for Medicaid.

F. LaHIPP recipients shall be entitled to coverage of the patient responsibility amounts for services covered under the group health insurance to the extent allowed under the Medicaid state plan and for all services that are not covered by the group health insurance but are provided for under the Medicaid state plan and rendered by Medicaid providers.

G. The department shall be entitled to any rate refund made when the health insurance carrier determines a return of premiums to the policy holder is due because of lower than anticipated claims for any period of time in which the department paid the premiums.

H. The Medicaid Program will make the determination whether the group health insurance plan(s) available to the recipient is cost effective.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

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.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 as it will provide greater access to affordable healthcare.

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 as this program may result in cost savings to the family by providing affordable insurance premiums to the insured.

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 may reduce the total direct and indirect cost to the provider to provide the same level of service and enhance the provider's ability to provide the same level of service since this proposed Rule establishes payment to providers for the same services they already render.

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 Monday, February 27, 2017 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  
Bureau of Health Services Financing

**PUBLIC HEARING CERTIFICATION**  
**February 27, 2017**  
**9:30 a.m.**

RE: Medicaid Eligibility  
Louisiana Health Insurance  
Premium Payment Program  
Docket # 02272017-03  
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 February 27, 2017 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in black ink, appearing to be "R. E. Gee", written over a horizontal line.

Medicaid Policy and Compliance  
Section

02/27/17

Date

# DHH/BHSF PUBLIC HEARING

## Topic – Medicaid Eligibility – Louisiana Health Insurance Premium Payment Program

**Date** – February 27, 2017

### PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornette Scott	State of Louisiana 628 N. LPH Street Baton Rouge, LA 70802	825-342-3881	LDH Medicaid Policy & Compliance
2. Shana Ville	Boncurre	725.922.5877	UNO / LDH
3. Kirsden Clebert	DAMS State Office	225 219-1149	LDH / OAS
4.			
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