



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

January 10, 2025

**Via Statutorily Prescribed Email**

**To:** The Honorable Patrick McMath, Chairman, Senate Health & Welfare Committee  
The Honorable Dustin Miller, Chairman, House Health & Welfare Committee

**From:** Michael Harrington, MBA, MA  
Secretary

A handwritten signature in blue ink, appearing to be "DH" or similar initials.

**Re:** Second Report to Proposed Amendments to LAC 50:XXI.707 and 711 – Home and Community-Based Services Waivers – Adult Day Health Care Providers – Cost Reporting

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the Home and Community-Based Services Waivers – Adult Day Health Care Providers – Cost Reporting, LAC 50:XXI.707 and 711.

A Notice of Intent on the proposed amendments was published in the November 20, 2024 issue of the *Louisiana Register* (LR 50:1740). No written comments were received and there was no request for a public hearing 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. 49:966B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the November 20, 2024 Notice of Intent when it is published as a final rule in the February 20, 2025 issue of the *Louisiana Register*.

Please contact Lindsey Nizzo, [Lindsey.Nizzo@la.gov](mailto:Lindsey.Nizzo@la.gov) if you have any questions or require additional information about this matter.

**Cc:** Kimberly Sullivan, Medicaid Director, LDH  
Brian Bennett, Medicaid Deputy Director, LDH  
Catherine Brindley, Medicaid Program Manager, LDH  
Geary Williams, OAAS Assistant Secretary, LDH  
Kirsten Clebert, OAAS Program Manager, LDH  
Bethany Blackson, Chief of Staff, LDH  
Andrea Trantham, Editor, *Louisiana Administrative Code*, Office of the State Register

**NOTICE OF INTENT**  
**Department of Health**  
**Bureau of Health Services Financing**  
**and**  
**Office of Aging and Adult Services**

Home and Community-Based Services Waivers  
Adult Day Health Care Providers  
Cost Reporting (LAC 50:XXI.707 and 711)

The Department of Health, Bureau of Health Services Financing and Office of Aging and Adult Services propose to amend LAC 50:XXI.711 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 and the Office of Aging and Adult Services propose to amend the provisions governing Adult Day Health Care providers in order to extend the due date for cost report filing from September 30 to November 30. This proposed Rule will also add language stating that the late filing penalty is non-refundable and subject to administrative appeal.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part XXI. Home and Community-Based Services**  
**Waivers**

**Subpart 1. General Provisions**

**Chapter 7. Reimbursement Methodology**  
**Subchapter B. Adult Day Health Care Providers**  
**§707. General Provisions**

A. The Department of Health (LDH) establishes reimbursement methodologies and cost reporting requirements for Adult Day Health Care (ADHC) providers of home and community-based services waiver programs.

B. - B.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, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:1113 (August 2021), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 51:

**§711. Cost Reporting**

A - C. ...

D. Annual Reporting. Cost reports are to be filed on or before November 30 following the close of the cost reporting period, which is five months after the state's fiscal year end (June 30). Should the due date fall on a Saturday, Sunday, or an official state or federal holiday, the due date shall be the following business day. The cost report forms and schedules must be filed with one copy of the following documents:

D.1. - M.2....

N. Delinquent Cost Report. When an ADHC provider fails to submit a cost report by the last day of September following the close of the cost reporting period, a penalty of 5 percent of the monthly payment for the first month and a

progressive penalty of 5 percent of the monthly payment for each succeeding month may be levied and withheld from the ADHC provider's payment for each month that the cost report is due, not extended and not received. If no claims are submitted for payment during the time of penalty implementation, the penalty will be imposed when the provider commences submitting claims for payment and will continue for the duration of the number of months the penalty would have been imposed. The late filing penalty is non-refundable and not subject to an administrative appeal.

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, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:1114 (August 2021), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 51:

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 Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on December 30, 2024.

### **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, December 10, 2024. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on December 30, 2024 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 December 10, 2024. 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.

Michael Harrington, MBA, MA  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Home and Community-Based Services Waivers—Adult Day Health Care Providers Cost Reporting**

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

It is anticipated that this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 24-25. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 24-25 for the state's administrative expense for promulgation of this proposed rule and the final rule.

The proposed rule amends the provisions governing Adult Day Health Care providers in order to extend the due date for cost report filing from September 30 to November 30. This proposed rule will also add language stating that the late filing penalty is non-refundable and subject to administrative appeal.

#### **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 on revenue collections other than the federal share of the promulgation costs for FY 24-25. It is anticipated \$324 will be collected in FY 24-25 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 Adult Day Health Care providers in order to extend the due date for cost report filing from September 30 to November 30. This proposed rule will also add language stating that the late filing penalty is non-refundable and subject to administrative appeal. This rule is not anticipated to result in any fiscal impact to providers or the Medicaid Program in FY 24-25, FY 25-26, or FY 26-27.

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

This rule has no known effect on competition and employment.

Kimberly Sullivan, JD  
Medicaid Executive Director  
2411#030

Patrice Thomas  
Deputy Fiscal Officer  
Legislative Fiscal Office

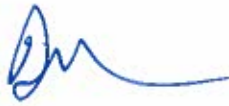


**State of Louisiana**  
Louisiana Department of Health  
Office of the Secretary

January 10, 2025

**Via Statutorily Prescribed Email**

**To:** The Honorable Patrick McMath, Chairman, Senate Health & Welfare Committee  
The Honorable Dustin Miller, Chairman, House Health & Welfare Committee

**From:** Michael Harrington, MBA, MA  
Secretary 

**Re:** Second Report to Proposed Amendments to LAC 50:XXI.Chapters 81, 85, 86, 93, and 95  
– Home and Community-Based Services Waivers – Community Choices Waiver

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the Home and Community-Based Services Waivers – Community Choices Waiver, LAC 50:XXI.Chapters 81, 85, 86, 93, and 95.

A Notice of Intent on the proposed amendments was published in the November 20, 2024 issue of the *Louisiana Register* (LR 50:1741). No written comments were received and there was no request for a public hearing 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. 49:966B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the October 20, 2024 Notice of Intent when it is published as a final rule in the February 20, 2025 issue of the *Louisiana Register*.

Please contact Lindsey Nizzo, [Lindsey.Nizzo@la.gov](mailto:Lindsey.Nizzo@la.gov) if you have any questions or require additional information about this matter.

**Cc:** Kimberly Sullivan, Medicaid Director, LDH  
Brian Bennett, Medicaid Deputy Director, LDH  
Catherine Brindley, Medicaid Program Manager, LDH  
Garry Williams, OAAS Assistant Secretary, LDH  
Kirsten Clebert, OAAS Program Manager, LDH  
Bethany Blackson, Chief of Staff, LDH  
Andrea Trantham, Editor, *Louisiana Administrative Code*, Office of the State Register

## **NOTICE OF INTENT**

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

Home and Community-Based Services Waivers  
Community Choices Waiver  
(LAC 50:XXI.Chapters 81, 85, 86, 93, and 95)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:XXI.Chapters 81, 85, 86, 93, and 95 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This 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 and the Office of Aging and Adult Services propose to amend the provisions governing the Community Choices Waiver (CCW). The amendments aim to add a new priority group, specify the requirements for criminal history background checks and database checks for employees, update the Organized Health Care Delivery System (OHCDS) language to reflect the additional CCW services, revise the reimbursement language to agree with the wage floor requirements, and modify the language regarding direct support/service worker wages, other benefits, and workforce retention bonus payments to indicate that Louisiana Department of Health is no longer establishing the criteria.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XXI. Home and Community-Based Services Waivers**

#### **Subpart 7. Community Choices Waiver**

#### **Chapter 81. General Provisions**

#### **§8105. Programmatic Allocation of Waiver Opportunities**

A. ...

B. Community Choices Waiver opportunities shall be offered to individuals on the registry according to priority groups. The following groups shall have priority for Community Choices Waiver opportunities, in the order listed:

1. - 4. ...

5. individuals who require expedited waiver services, who are approved for the maximum amount of services allowable under LT-PCS and will require institutional placement, unless offered an expedited waiver opportunity;

6. individuals who are not presently receiving home and community-based services (HCBS) under another Medicaid program, including, but not limited to:

a. Program of All-Inclusive Care for the Elderly (PACE);

b. long term—personal care services (LT-PCS); and/or

c. any other 1915(c) waiver; and

7. all other eligible individuals on the CCW registry, by date of first request for services.

C. - D. ...

E. Notwithstanding the priority group provisions, up to 300 Community Choices Waiver opportunities may be

granted to qualified individuals who require expedited waiver services. These individuals shall be offered an opportunity on a first-come, first-served basis.

1. To be considered for an expedited waiver opportunity, the individual must, at the time of the request for the expedited opportunity, be approved for the maximum amount of services allowable under LT-PCS and require institutional placement, unless offered an expedited waiver opportunity.

2. The following criteria shall be considered in determining whether to grant an expedited waiver opportunity:

- a. ...
- b. the death or incapacitation of an informal caregiver leaves the individual without other supports;
- c. ...
- d. the individual lives alone and has no access to informal support; or
- e. for other reasons, the individual lacks access to adequate informal support to prevent nursing facility placement.

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 Aging and Adult Services, LR 37:3517 (December 2011), amended LR 39:319 (February 2013), LR 39:1778 (July 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:1896 (October 2018), LR 45:756 (June 2019), LR 50:785 (June 2024), LR 51:

## **Chapter 85. Self-Direction Initiative**

### **§8501. Self-Direction Service Option**

A. - C.2.d.vi. ...

D. Employee Qualifications. All employees under the self-direction option must:

1. ...
2. pass required criminal history background and database checks; and
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, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3523 (December 2011), amended LR 39:321 (February 2013), LR 39:1779 (July 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:1900 (October 2018), LR 49:1726 (October 2023), LR 50:787 (June 2024), LR 51:

## **Chapter 86. Organized Health Care Delivery System**

### **§8601. General Provisions**

A. - C. ...

D. Prior to enrollment, an OHCDs must demonstrate the ability to provide all of the CCW services.

1. For ADHC services, the OHCDs must show the ability to provide this service, only if there is a licensed ADHC provider in the service area.

2. - 8. 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 Aging and Adult Services, LR 40:792 (April 2014), amended LR 41:2643 (December 2015), amended by the

Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:1901 (October 2018), LR 50:787 (June 2024), LR 51:

## **Chapter 93. Provider Responsibilities**

### **§9301. General Provisions**

A. ...

B. All providers (with the exception of Home Delivered Meals providers), Self-Direction (SD) employers and/or Fiscal Employer Agencies (FEAs) must ensure that statewide criminal history background checks are performed on all unlicensed persons working for their agency in accordance with R.S. 40:1203.1 et seq. and/or other applicable state law upon hire.

1. Ensure that the provider or SD employer and/or FEA does not hire unlicensed persons who have a conviction that bars employment in accordance with R.S. 40:1203.3 or other applicable state law.

a. The provider, SD employer and/or FEA shall have documentation on the final disposition of all charges that bars employment pursuant to applicable state law.

2. Ensure that all employees, including contractors, have not been excluded from participation in the Medicaid programs by checking the databases upon hire and monthly thereafter.

a. The provider, SD employer and/or FEA must maintain documentation of the results of these database checks.

C. The provider shall not request payment unless the participant for whom payment is requested is receiving services in accordance with the Community Choices Waiver program provisions and the services have been prior authorized and actually provided.

D. Any provider of services under the Community Choices Waiver shall not refuse to serve any individual who chooses their agency unless there is documentation to support an inability to meet the individual's health and welfare needs, or all previous efforts to provide service and supports have failed and there is no option but to refuse services.

1. OAAS or its designee must be immediately notified of the circumstances surrounding a refusal by a provider to render services.

2. This requirement can only be waived by OAAS or its designee.

E. Providers must maintain adequate documentation to support service delivery and compliance with the approved POC and will provide said documentation at the request of the department, or its designee.

F. Any provider of services under the Community Choices Waiver shall not interfere with the eligibility, assessment, care plan development, or care plan monitoring processes with use of methods including, but not limited to:

1. harassment;
2. intimidation; or
3. threats against program participants, members of their informal support network, LDH staff or support coordination staff.

G. Any provider of services under the Community Choices Waiver shall have the capacity and resources to provide all aspects of any service they are enrolled to provide in the specified service area.

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 Aging and Adult Services, LR 37:3524 (December 2011), amended LR 39:322 (February 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:1901 (October 2018), LR 50:788 (June 2024), LR 51:

## **Chapter 95. Reimbursement**

### **§9501. Reimbursement and Rate Requirements**

A. - G. ...

H. Personal assistance service providers and Self-Direction employers must pay their direct services workers (DSW) a minimum of \$9 per hour.

I. ADHC providers must pay their ADHC direct support workers a minimum of \$9 per hour.

J. The state has the authority to set and change provider rates and/or provide lump sum payments to providers based upon funds allocated by the legislature.

**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 Aging and Adult Services, LR 37:3525 (December 2011), amended LR 39:322 (February 2013), LR 39:508, 508 (March 2013), repromulgated LR 39:1048 (April 2013), amended LR 39:1779 (July 2013), LR 40:793 (April 2014), LR 42:897 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:1902 (October 2018), LR 47:886 (July 2021), LR 49:487 (March 2023), LR 50:788 (June 2024), LR 51:

### **§9503. Direct Support/Service Worker Wages, Other Benefits, and Workforce Retention Bonus Payments**

A. Direct Support/Service Worker Wage Floor and Other Benefits

1. Repealed.

2. - 3. ...

4. All PAS and ADHC providers affected by this rate increase shall be subject to passing 70 percent of their rate increases directly to the direct support/service worker in various forms. These forms include a minimum wage floor of \$9 per hour and other wage and non-wage benefits. These wage floor and wage and non-wage benefits are effective for all affected direct support/service workers, including contracted workers, of any working status, whether full-time or part-time.

5. Repealed.

6. ...

B. Direct Support/Service Worker Workforce Bonus Payments

1. Repealed.

2. The PAS and ADHC direct support/service worker who provided services from April 1, 2021 to October 31, 2022 to participants, must receive at least \$250 of this \$300 monthly bonus payment paid to the provider. This bonus payment is effective for all affected direct support/service workers, including contracted workers, of any working status, whether full-time or part-time.

C. - D.1.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, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 49:684 (April 2023), LR 51:

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 a no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

### **Small Business Analysis**

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses.

### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, 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 Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on December 30, 2024.

### **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 December 10, 2024. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on December 30, 2024 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 December 10, 2024. 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.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Home and Community-Based Services  
Waivers—Community Choices Waiver**

**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 24-25. It is anticipated that \$1404 (\$702 SGF and \$702 FED) will be expended in FY 24-25 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule amends the provisions governing the Community Choices Waiver (CCW). The amendments aim to add a new priority group, specify the requirements for criminal history background checks and database checks for employees, update the Organized Health Care Delivery System (OHCDS) language to reflect the additional CCW services, revise the reimbursement language to agree with the wage floor requirements, and modify the language regarding direct support/service worker wages, other benefits, and workforce retention bonus payments to indicate that Louisiana Department of Health is no longer establishing the criteria.

**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 24-25. It is anticipated that \$702 will be collected in FY 24-25 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 Community Choices Waiver (CCW). The amendments aim to add a new priority group, specify the requirements for criminal history background checks and database checks for employees, update the Organized Health Care Delivery System (OHCDS) language to reflect the additional CCW services, revise the reimbursement language to agree with the wage floor requirements, and modify the language regarding direct support/service worker wages, other benefits, and workforce retention bonus payments to indicate that Louisiana Department of Health is no longer establishing the criteria. Implementation of this proposed rule will not result in costs to providers and small businesses in FY 24-25, FY 25-26, and FY 26-27.

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

This rule has no known effect on competition and employment.

Kimberly Sullivan, JD  
Medicaid Executive Director  
2411#031

Patrice Thomas  
Deputy Fiscal Officer  
Legislative Fiscal Office





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

January 10, 2025

**Via Statutorily Prescribed Email**

**To:** The Honorable Patrick McMath, Chairman, Senate Health & Welfare Committee  
The Honorable Dustin Miller, Chairman, House Health & Welfare Committee

**From:** Michael Harrington, MBA, MA  
Secretary

A blue ink signature of Michael Harrington.

**Re:** Second Report to Proposed Amendments to LAC 50:V.Chapter 12 – Hospital Services – Inpatient Hospital Services – Other Rural Hospitals

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the Hospital Services – Inpatient Hospital Services – Other Rural Hospitals, 50:V.Chapter 12.

A Notice of Intent on the proposed amendments was published in the November 20, 2024 issue of the *Louisiana Register* (LR 50:1744). No written comments were received and there was no request for a public hearing 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. 49:966B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the November 20, 2024 Notice of Intent when it is published as a final rule in the February 20, 2025 issue of the *Louisiana Register*.

Please contact Tizi Robinson, [Tizi.Robinson@la.gov](mailto:Tizi.Robinson@la.gov), and Debbie Dough, [Debbie.Gough@la.gov](mailto:Debbie.Gough@la.gov) if you have any questions or require additional information about this matter.

**Cc:** Kimberly Sullivan, Medicaid Director, LDH  
Brian Bennett, Medicaid Deputy Director, LDH  
Catherine Brindley, Medicaid Program Manager, LDH  
Bethany Blackson, Chief of Staff, LDH  
Andrea Trantham, Editor, *Louisiana Administrative Code*, Office of the State Register

## NOTICE OF INTENT

### Department of Health Bureau of Health Services Financing

Hospital Services  
Inpatient Hospital Services  
Other Rural Hospitals  
(LAC 50:V.1201 and 1225)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:V.Chapter 12 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.

Department of Health, Bureau of Health Services Financing proposes to adopt this Rule to continue to the provisions of a corresponding Emergency Rule adopted on September 16, 2024 and promulgated in the October 20, 2024 *Louisiana Register*. This proposed Rule adopts Chapter 12 in LAC Title 50, Part V, Subpart 1 to add new provisions for inpatient payments to qualifying other rural hospitals. The department will increase Medicaid inpatient hospital prospective per diem rates to qualifying hospitals for acute services, neonatal intensive care, nursery boarder baby, and inpatient psychiatric services to 85 percent of the applicable small rural hospital rate currently in effect.

This Rule is proposed to ensure the financial viability of rural hospitals. This measure aims to maintain and enhance access to medical care for Medicaid beneficiaries in their communities.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

##### Part V. Hospital Services

##### Subpart 1. Inpatient Hospitals Services

##### Chapter 12. Other Rural Hospitals

##### Subchapter A. General Provisions

##### §1201. Qualifying Criteria

A. To qualify as an other rural, non-state hospital, the hospital shall meet the following criteria:

1. is a non-state owned hospital;
2. has no more than 60 licensed beds as of October 1, 2024, excluding distinct part psychiatric unit beds, distinct part rehabilitation unit beds, and nursery bassinets;
3. does not qualify as a *rural hospital* as defined in R.S. 40:1189.3;
4. is not located within one of Louisiana's metropolitan statistical areas (MSA) as delineated in OMB Bulletin No. 23-01;
5. has an operational emergency room; and
6. is located in a municipality with a population of less than 23,000 as measured by the 2020 United States Census Bureau.

**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 51:

**Subchapter B. Reimbursement Methodology**

**§1225. Other Rural Hospitals**

A. The inpatient hospital per diem rates paid to other rural, non-state hospitals shall be as follows.

1. Acute Care Services. The per diem rate for acute care services shall be 85 percent of the small rural hospital acute per diem rate in effect.

2. Psychiatric Services. The per diem rate for psychiatric services shall be 85 percent of the small rural hospital psychiatric per diem rate in effect.

3. Neonatal Intensive Care Unit (NICU) Services. The per diem rate for NICU services shall be 85 percent of the small rural hospital NICU per diem rate in effect.

4. Nursery Boarder Baby Services. The per diem rate for nursery boarder baby services shall be 85 percent of the small rural hospital nursery boarder baby per diem rate in effect.

**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 51:

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 the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses.

**Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have positive impact on the provider's ability to provide the same level of service as described in HCR.

**Public Comments**

Interested persons may submit written comments to Kimberly Sullivan, JD, Bureau of Health Services

Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is December 30, 2024.

**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 December 10, 2024. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on December 30, 2024 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 December 10, 2024. 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.

Michael Harrington, MBA, MA  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Hospital Services—Inpatient Hospital  
Services—Other Rural Hospitals**

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

It is anticipated that implementation of this proposed rule will result in increased state costs of approximately \$3,699,038 for FY 24-25, \$4,060,382 for FY 25-26, and \$4,060,382 for FY 26-27. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 24-25 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule continues the provisions of the September 16, 2024 Emergency Rule, which amended the provisions governing inpatient hospital services to ensure that other rural hospitals remain financially viable so that the access to medical care that they provide to Medicaid beneficiaries in their communities will continue to be available and will improve in the future. (*Louisiana Register*, Volume 50, Number 9).

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

It is anticipated that implementation of this proposed rule will increase federal revenue collections by approximately \$12,591,714 for FY 24-25, for \$13,926,191 for FY 25-26, and \$13,926,191 for FY 26-27. It is anticipated that \$324 will be collected in FY 24-25 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 continues the provisions of the September 16, 2024 Emergency Rule, which amended the provisions governing inpatient hospital services to ensure that other rural hospitals remain financially viable so that the access to medical care that they provide to Medicaid beneficiaries in their communities will continue to be available and will improve in the future. (*Louisiana Register*, Volume 50, Number 9). Providers will benefit from implementation of this proposed rule, since it is anticipated to increase Medicaid

payments for inpatient services by approximately \$16,290,104 for FY 24-25, \$17,986,573 for FY 25-26, and \$17,986,573 for FY 26-27.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)

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

Kimberly Sullivan, JD  
Medicaid Executive Director  
2411#042

Patrice Thomas  
Deputy Fiscal Officer  
Legislative Fiscal Office




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

January 10, 2025

**Via Statutorily Prescribed Email**

**To:** The Honorable Patrick McMath, Chairman, Senate Health & Welfare Committee  
The Honorable Dustin Miller, Chairman, House Health & Welfare Committee

**From:** Michael Harrington, MBA, MA   
Secretary

**Re:** Second Report to Proposed Amendments to LAC 50:V.Chapter 79 – Hospital Services –  
Outpatient Hospital Services – Other Rural Hospitals

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the Hospital Services – Outpatient Hospital Services – Other Rural Hospitals, 50:V.Chapter 79.

A Notice of Intent on the proposed amendments was published in the November 20, 2024 issue of the *Louisiana Register* (LR 50:1746). No written comments were received and there was no request for a public hearing 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. 49:966B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the November 20, 2024 Notice of Intent when it is published as a final rule in the February 20, 2025 issue of the *Louisiana Register*.

Please contact Tizi Robinson, [Tizi.Robinson@la.gov](mailto:Tizi.Robinson@la.gov), and Debbie Dough, [Debbie.Gough@la.gov](mailto:Debbie.Gough@la.gov) if you have any questions or require additional information about this matter.

**Cc:** Kimberly Sullivan, Medicaid Director, LDH  
Brian Bennett, Medicaid Deputy Director, LDH  
Catherine Brindley, Medicaid Program Manager, LDH  
Bethany Blackson, Chief of Staff, LDH  
Andrea Trantham, Editor, *Louisiana Administrative Code*, Office of the State Register

**NOTICE OF INTENT**  
**Department of Health**  
**Bureau of Health Services Financing**

Hospital Services  
Outpatient Hospital Services  
Other Rural Hospitals  
(LAC 50:V.Chapter 79)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:V.Chapter 79 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 adopt this Rule to continue the provisions of a corresponding Emergency Rule adopted on September 16, 2024 and promulgated in the October 20, 2024 *Louisiana Register*. This proposed Rule adopts Chapter 79 in LAC Title 50, Part V, Subpart 5 to add new provisions for outpatient payments to qualifying other rural hospitals. The department will increase Medicaid outpatient hospital payments to qualifying hospitals for outpatient hospital services to 95 percent of allowable cost as determined per the Medicare/Medicaid hospital cost report. A provision is included to limit the percentage of increase from the initial year of implementation to 3 percent per encounter cumulative for each subsequent year.

This Rule is proposed to ensure the financial viability of rural hospitals. This measure aims to maintain and enhance access to medical care for Medicaid beneficiaries in their communities.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part V. Hospital Services**  
**Subpart 5. Outpatient Hospital Services**  
**Chapter 79. Other Rural Hospitals**  
**§7901. Qualifying Criteria**

A. In order to qualify as an other rural, non-state hospital, the hospital shall meet the following criteria:

1. is a non-state owned hospital;
2. has no more than 60 licensed beds as of October 1, 2024, excluding distinct part psychiatric unit beds, distinct part rehabilitation unit beds, and nursery bassinets;
3. does not qualify as a *rural hospital* as defined in R.S. 40:1189.3;
4. is not located within one of Louisiana's metropolitan statistical areas (MSA) as delineated in the OMB Bulletin No. 23-01;

5. has an operational emergency room; and
6. is located in a municipality with a population of less than 23,000 as measured by the 2020 United States Census.

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 51:

**§7903. Reimbursement Methodology**

A. The reimbursement rates paid to other rural, non-state hospitals for outpatient hospital services shall be as follows.

1. **Surgery Services.** The reimbursement amount for outpatient hospital surgery services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost as calculated through the cost report settlement process.

2. **Clinic Services.** The reimbursement amount for outpatient hospital facility fees for clinic services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost as calculated through the cost report settlement process.

3. **Laboratory Services.** The reimbursement amount for outpatient clinical diagnostic laboratory services shall be the Medicaid fee schedule amount on file for each service.

4. **Rehabilitation Services.** The reimbursement amount for outpatient rehabilitation services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost as calculated through the cost report settlement process.

5. **Other Outpatient Hospital Services.** The reimbursement amount for outpatient hospital services other than surgery services, clinic services, clinical diagnostic laboratory services, and rehabilitation services shall be an interim payment equal to 95 percent of allowable Medicaid cost as calculated through the cost report settlement process.

B. If a qualifying hospital's outpatient cost is greater in subsequent cost reporting periods than the initial implementation year cost report period's cost, outpatient costs shall be subjected to a cap prior to determination of cost settlement amount. Calculation of reimbursable costs shall be as follows.

1. An average cost per Medicaid outpatient unduplicated encounter per day shall be established using Medicaid cost report and paid claims data from the initial cost report period of implementation. The average unduplicated encounter cost per day shall be calculated by dividing the total outpatient allowable costs for all Medicaid outpatient services by the number of paid unduplicated encounters per day. Clinical diagnostic laboratory services and vaccines are not included in this calculation.

2. To determine the capped limit for each subsequent year's allowable cost settlement reimbursement, the base year outpatient unduplicated encounter per day cost shall be multiplied by the unduplicated encounters from the applicable subsequent cost reporting period's Medicaid paid claims data and then increased by 3 percent cumulatively for each year subsequent to the initial implementation year.

3. Final reimbursement shall be 95 percent multiplied by the lesser of capped cost amount calculated per

§7903.B.2 or allowable reimbursable cost calculated per §7903.A.

**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 51:

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 the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, but may have a positive impact on the provider's ability to provide the same level of services as described in HCR 170.

#### **Public Comment**

Interested persons may submit written comments to Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on December 30, 2024.

#### **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, December 10, 2024. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on December 30, 2024 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 December 10, 2024. 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.

Michael Harrington, MBA, MA  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Hospital Services**

#### **Outpatient Hospital Services—Other Rural Hospitals**

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

It is anticipated that implementation of this proposed rule will result in increased state cost of approximately \$3,083,052 for FY 24-25, \$3,358,499 for FY 25-26, and \$3,358,499 for FY 26-27. It is anticipated that \$756 (\$378 SGF and \$378 FED) will be expended in FY 24-25 for the state's administrative expense for promulgation of this rule and the final rule.

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

It is anticipated that implementation of this proposed rule will increase federal revenue collections by approximately \$10,408,056 for FY 24-25, \$11,457,354 for FY 25-26, and \$11,457,354 for FY 26-27. It is anticipated that \$378 will be collected in FY 24-25 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 continues the provisions of the September 16, 2024 Emergency Rule, which ensures that other rural hospitals remain financially viable so that the access to medical care that they provide to Medicaid beneficiaries in their communities will continue to be available and will improve in the future (*Louisiana Register*, Volume 50, Number 9). This proposed rule is being promulgated to continue the provisions of the September 16, 2024 Emergency Rule.

It is anticipated that providers will benefit from implementation of this proposed rule as Medicaid payments to other rural hospitals are anticipated to increase by approximately \$13,490,352 for FY 24-25, \$14,815,853 for FY 25-26, and \$14,815,853 for FY 26-27.

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

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

Kimberly Sullivan, JD  
Medicaid Executive Director  
2411#041

Patrice Thomas  
Deputy Fiscal Officer  
Legislative Fiscal Office