



State of Louisiana
Louisiana Department of Health
Office of the Secretary

January 9, 2020

Via Statutorily Prescribed Email

To: The Honorable Fred H. Mills, Jr. Chairman, Senate Health & Welfare Committee
The Honorable Frank A. Hoffmann, Chairman, House Health & Welfare Committee

From: 
Rebekah E. Gee, MD, MPH
Secretary

Re: Second Report on Proposed Amendments to LAC 50:X1.10703 – Federally Qualified Health Centers Reimbursement Methodology Mammography Separate Payments

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed amendments to the rules concerning Federally Qualified Health Centers Reimbursement Methodology Mammography Separate Payments.

A Notice of Intent on the proposed amendments was published in the November 20, 2019 issue of the *Louisiana Register* (LR 45:1663). No written comments or requests for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the November 20, 2019, Notice of Intent when it is published as a final rule in the February 20, 2020, issue of the *Louisiana Register*.

Should you have any questions or need additional information, please contact Jen Katzman, Medicaid Deputy Director, at Jennifer.Katzman@la.gov.

Cc: Jen Katzman, Deputy Medicaid Director, Department of Health
Veronica Dent, Medicaid Program Manager, Department of Health
Anita Dupuy, Legislative Liaison, Department of Health
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Federally Qualified Health Centers Reimbursement Methodology Mammography Separate Payments (LAC 50:X1.10703)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:X1.10703 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 Service Financing promulgated a Rule which amended the provisions governing the reimbursement methodology for federally qualified health centers (FQHCs) to allow the reimbursement of a separate payment outside of the prospective payment system rate for mammography screening and diagnosis services (*Louisiana Register*, Volume 44, Number 12). The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) disapproved the corresponding State Plan amendment (SPA) submitted for this Rule. The department now proposes to amend the reimbursement methodology for FQHCs in order to repeal the provisions of the December 20, 2018 Rule due to the CMS-disapproved SPA.

TITLE 50

PUBLIC HEALTH-MEDICAL ASSISTANCE Part XI. Clinic Services Subpart 13. Federally-Qualified Health Centers

Chapter 107. Reimbursement Methodology

§10703. Alternate Payment Methodology

A. - C. ...

D. Effective for dates of service on or after January 1, 2019, FQHCs shall be reimbursed a separate payment outside of the prospective payment system (PPS) rate for ~~the following services:~~ long acting reversible contraceptives (LARCs).

1. ~~Long Acting Reversible Contraceptives (LARCs).~~

Reimbursement for LARCs shall be at the lesser of, the rate on file or the actual acquisition cost for entities participating in the 340B program. Federally qualified health centers eligible for 340B pricing must bill Medicaid at their 340B actual acquisition cost for reimbursement.

~~a. Reimbursement for LARCs shall be at the lesser of, the rate on file or the actual acquisition cost for entities participating in the 340B program. Federally qualified health centers eligible for 340B pricing must bill Medicaid at their 340B actual acquisition cost for reimbursement.~~

~~2. Mammogram Screening and Diagnosis~~

~~a. Reimbursement for mammogram screening and diagnostics shall be a flat fee on file based on Medicaid~~

~~covered current procedural terminology (CPT) code(s), in addition to the PPS rate for the associated encounter/office visit.~~ 1.a. - 2.a. Repealed.

E. - G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1033 (June 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 44:1894 (October 2018), LR 44:2162 (December 2018), LR 45:434 (March 2019), amended LR 46:

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 effect 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 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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele 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, 2019.

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, 2019. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on December 26, 2019 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, 2019. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH

Secretary



State of Louisiana
Louisiana Department of Health
Office of the Secretary

January 9, 2020

Via Statutorily Prescribed Email

To: The Honorable Fred H. Mills, Jr. Chairman, Senate Health & Welfare Committee
The Honorable Frank A. Hoffmann, Chairman, House Health & Welfare Committee

From: *By Candy Rivera for*
Rebekah E. Gee, MD, MPH
Secretary

Re: Second Report on Proposed Amendments to LAC 50:XXXIII.8101 and 8103 – Home and Community-Based Behavioral Health Services Waiver Coordinated System of Care Discharge Criteria

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed amendments to the rules concerning Home and Community-Based Behavioral Health Services Waiver Coordinated System of Care Discharge Criteria.

A Notice of Intent on the proposed amendments was published in the November 20, 2019 issue of the *Louisiana Register* (LR 45:1665). No written comments or requests for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the November 20, 2019, Notice of Intent when it is published as a final rule in the February 20, 2020, issue of the *Louisiana Register*.

Should you have any questions or need additional information, please contact Jen Katzman, Medicaid Deputy Director, at Jennifer.Katzman@la.gov.

Cc: Jen Katzman, Deputy Medicaid Director, Department of Health
Veronica Dent, Medicaid Program Manager, Department of Health
Anita Dupuy, Legislative Liaison, Department of Health
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing
and
Office of Behavioral Health**

**Home and Community-Based Behavioral Health Services Waiver
Coordinated System of Care Discharge Criteria
(LAC 50:XXXIII.8101 and 8103)**

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.8101 and §8103 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 Behavioral Health propose to amend the provisions governing the home and community-based behavioral health services waiver to specify discharge criteria for the Coordinated System of Care (CSoC) program which aligns with federal regulations and current practices, since the current administrative Rule does not address the authority to discharge participants who no longer meet CSoc waiver eligibility requirements.

Title 50

**PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XXXIII. Behavioral Health Services**

Subpart 9. Home and Community-Based Services Waiver

Chapter 81. General Provisions

§8101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage ~~under the Medicaid State Plan~~ for behavioral health services rendered to children with mental illness and severe emotional disturbances (SED) by establishing a 1915(b)/(c) home and community-based services (HCBS) waiver, known as the Coordinated System of Care (CSoC) waiver. This HCBS waiver shall be administered under the authority of the Department of Health, in collaboration with the coordinated system of care (CSoC) contractor, which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery.

B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:366 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2361 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and

the Office of Behavioral Health, LR 43:323 (February 2017), LR 46:

§8103. Recipient Qualifications

A. The target population for the Home and Community-Based Behavioral Health Services Waiver program shall be Medicaid recipients who:

1. - 3. ...

4. require hospital or nursing facility level of care or are functionally eligible for CSoC, as determined by the department's designated assessment tools and criteria;

A.5. - B. ...

C. Recipients shall be discharged from the waiver program if one or more of the following criteria is met:

1. the recipient met his/her identified goals on the individualized plan of care created by the child and family team process;

2. the recipient relocated out of state;

3. the recipient no longer meets psychiatric hospital or nursing facility level of care or are functionally ineligible for CSoC, as determined by the department's designated assessment tools and criteria;

4. the recipient no longer meets financial eligibility criteria;

5. the recipient or his/her parent or guardian disengaged from services, evidenced by lack of face-to-face contact for 60 consecutive calendar days or more;

6. the recipient is incarcerated for 30 consecutive calendar days or more; or

7. The recipient is residing in a non-home and community based setting for more than 90 consecutive calendar days.

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 38:366 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2361 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:324 (February 2017), LR 44:1895 (October 2018), LR 46:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to

provide the same level of service, 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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele 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, 2019.

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, 2019. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on December 26, 2019 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, 2019. If a public hearing is to be held, all interested persons are invited to

attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH

Secretary



State of Louisiana
Louisiana Department of Health
Office of the Secretary

January 9, 2020

Via Statutorily Prescribed Email

To: The Honorable Fred H. Mills, Jr. Chairman, Senate Health & Welfare Committee
The Honorable Frank A. Hoffmann, Chairman, House Health & Welfare Committee

From: *By Candy River for*
Rebekah E. Gee, MD, MPH
Secretary

Re: Second Report on Proposed Amendments to LAC 50:XV Chapter 163 – Pregnant Women Extended Services—Substance Use Screening and Intervention Services Tobacco Cessation

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed amendments to the rules concerning Pregnant Women Extended Services—Substance Use Screening and Intervention Services Tobacco Cessation.

A Notice of Intent on the proposed amendments was published in the November 20, 2019 issue of the *Louisiana Register* (LR 45:1666). No written comments or requests for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the November 20, 2019, Notice of Intent when it is published as a final rule in the February 20, 2020, issue of the *Louisiana Register*.

Should you have any questions or need additional information, please contact Jen Katzman, Medicaid Deputy Director, at Jennifer.Katzman@la.gov.

Cc: Jen Katzman, Deputy Medicaid Director, Department of Health
Veronica Dent, Medicaid Program Manager, Department of Health
Anita Dupuy, Legislative Liaison, Department of Health
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Pregnant Women Extended Services Substance Use Screening and Intervention Services Tobacco Cessation (LAC 50:XV.Chapter 163)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XV.Chapter 163 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing extended services for pregnant women in order to implement tobacco cessation services mandated by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services and remove outdated references to the Louisiana Health Assessment Referral and Treatment (LaHART) program.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE Part XV. Services for Special Populations Subpart 13. Pregnant Women Extended Services

Chapter 163. Substance ~~Abuse~~Use Screening and Intervention Services

§16301. General Provisions

A. ~~Effective for dates of service on or after April 1, 2011, the~~ The department shall provide coverage of medically necessary substance ~~abuse~~ use screening and ~~brief~~ intervention services rendered to Medicaid-eligible pregnant ~~women with the Louisiana health assessment referral and treatment system~~ at the discretion of the medical professional providing care to the pregnant woman.

B. ~~Substance abuse screening and intervention services may be performed with the Louisiana health assessment referral and treatment system at the discretion of the medical professional providing care to the pregnant woman.~~ Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:794 (April 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

§16303. Scope of Services

A. Screening services shall include the screening of pregnant ~~women with the Louisiana health assessment referral and treatment system for the use of:~~

1. alcohol use;

2. tobacco use;
3. ~~drugs~~drug use; and/or
4. domestic violence.

B. Intervention services shall include a ~~brief 15-30 minute~~ counseling session, which shall be a minimum of 15-30 minutes in duration, with a health care professional intended to ~~help~~ motivate the recipient to develop a plan to moderate or cease their use of alcohol, ~~tobacco~~, and/or drugs.

C. Service Limits. Substance ~~abuse~~use screening and intervention services shall be limited to one occurrence ~~each~~ per pregnancy, or once every 270 days. Pregnant women may also receive up to eight tobacco cessation counseling sessions per year.

1. If the ~~patient~~recipient experiences a miscarriage or fetal death and becomes pregnant within the 270-day period, ~~all LaHART~~ screening and ~~brief~~ intervention services ~~will~~shall be reimbursed for the subsequent pregnancy.

D. Tobacco Cessation Counseling and Pharmacotherapy. The department shall provide coverage of diagnostic, therapeutic counseling services and pharmacotherapy for the cessation of tobacco use by pregnant women who use tobacco products or who are being treated for tobacco use. Counseling sessions shall be face-to-face with an appropriate health care professional.

1. Pregnant women may receive four counseling sessions per quit attempt, up to two quit attempts per calendar year. The period of coverage for these services shall include the prenatal period through 60 days postpartum. Services shall be provided:

a. by or under the supervision of a physician;
or

b. by any other health care professional who is:

i. legally authorized to furnish such services under Louisiana state law and is authorized to provide Medicaid coverable services other than tobacco cessation; or

ii. legally authorized to provide tobacco cessation services under Louisiana state law and is designated by the secretary of the department to provide these services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:794 (April 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

\$16305. Reimbursement Methodology

~~A. Effective for dates of service on or after April 1, 2011, the Medicaid Program shall provide reimbursement~~
Reimbursement for substance ~~abuse~~ use screening and intervention services ~~rendered~~ provided to ~~Medicaid-eligible~~ pregnant women shall be a flat fee based on the appropriate current procedural terminology (CPT) code.

1. No reimbursement shall be made in excess of the established service limits.

~~B. Reimbursement for these services shall be a flat fee based on the appropriate Healthcare Common Procedure Coding (HCPC) code.~~

~~C. Effective for dates of service on or after January 1, 2013, Medicaid reimbursement for substance abuse screening and intervention services shall only be made to providers with documented use of the LaHART system.~~
B. - C. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:795 (April 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health

and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by reducing prenatal complications and childhood health problems associated with maternal use of tobacco and other substances.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it is expected to reduce prenatal complications associated with maternal use of tobacco and other substances.

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, 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 may increase payments to providers of substance use screening and intervention services.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele 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, 2019.

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, 2019. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on December 26, 2019 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, 2019. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH

Secretary



State of Louisiana
Louisiana Department of Health
Office of the Secretary

January 9, 2020

Via Statutorily Prescribed Email

To: The Honorable Fred H. Mills, Jr. Chairman, Senate Health & Welfare Committee
The Honorable Frank A. Hoffmann, Chairman, House Health & Welfare Committee

From: *By Candy Rivers to*
Rebekah E. Gee, MD, MPH
Secretary

Re: Second Report on Proposed Amendments to LAC 50:XI.16703 – Rural Health Clinics—Reimbursement Methodology Mammography Separate Payments

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed amendments to the rules concerning Rural Health Clinics Qualified Health Centers—Reimbursement Methodology Mammography Separate Payments.

A Notice of Intent on the proposed amendments was published in the November 20, 2019 issue of the *Louisiana Register* (LR 45:1668). No written comments or requests for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the November 20, 2019, Notice of Intent when it is published as a final rule in the February 20, 2020, issue of the *Louisiana Register*.

Should you have any questions or need additional information, please contact Jen Katzman, Medicaid Deputy Director, at Jennifer.Katzman@la.gov.

Cc: Jen Katzman, Deputy Medicaid Director, Department of Health
Veronica Dent, Medicaid Program Manager, Department of Health
Anita Dupuy, Legislative Liaison, Department of Health
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Rural Health Clinics Reimbursement Methodology Mammography Separate Payments (LAC 50:X1.16703)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:X1.16703 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 promulgated a Rule which amended the provisions governing the reimbursement methodology for rural health clinics (RHCs) to allow the reimbursement of a separate payment outside of the prospective payment system rate for mammography screening and diagnosis services (*Louisiana Register*, Volume 44, Number 12). The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) disapproved the corresponding State Plan amendment (SPA) submitted for this Rule. The department now proposes to amend the reimbursement methodology for RHCs in order to repeal the provisions of the December 20, 2018 Rule due to the CMS-disapproved SPA.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XI. Clinic Services
Subpart 15. Rural Health Clinics

Chapter 167. Reimbursement Methodology

§16703. Alternate Payment Methodology

A. - C. ...

D. Effective for dates of service on or after January 1, 2019, RHCs shall be reimbursed a separate payment outside of the prospective payment system (PPS) rate for ~~the following services+~~long acting reversible contraceptives (LARCs).

1. ~~Long-Acting Reversible Contraceptives (LARCs).~~

Reimbursement for LARCs shall be at the lesser of, the rate on file or the actual acquisition cost for entities participating in the 340B program. Rural health clinics eligible for 340B pricing must bill Medicaid at their 340B actual acquisition cost for reimbursement.

~~a. Reimbursement for LARCs shall be at the lesser of, the rate on file or the actual acquisition cost for entities participating in the 340B program. Rural health clinics eligible for 340B pricing must bill Medicaid at their 340B actual acquisition cost for reimbursement.~~

~~2. Mammogram Screening and Diagnosis~~

~~a. Reimbursement for mammogram screening and diagnostics shall be a flat fee on file based on Medicaid covered current procedural terminology (CPT) code(s), in~~

~~addition to the PPS rate for the associated encounter/office visit.1.a. - 2.a. Repealed.~~

E. - G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1036 (June 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 44:1903 (October 2018), LR 44:2168 (December 2018), LR 45:435 (March 2019), amended LR 46:

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 effect 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 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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele 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, 2019.

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, 2019. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on December 26, 2019 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, 2019. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH

Secretary



State of Louisiana
Louisiana Department of Health
Office of the Secretary

January 9, 2020

Via Statutorily Prescribed Email

To: The Honorable Fred H. Mills, Jr. Chairman, Senate Health & Welfare Committee
The Honorable Frank A. Hoffmann, Chairman, House Health & Welfare Committee

From: *By Candy Rives for*
Rebekah E. Gee, MD, MPH
Secretary

Re: Second Report on Proposed Amendments to LAC 50:XV.9541 and XXXIII.Chapters 41-45 – School-Based Health Services—School-Based Applied Behavior Analysis-Based Therapy Services

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed amendments to the rules concerning School-Based Health Services—School-Based Applied Behavior Analysis-Based Therapy Services.

A Notice of Intent on the proposed amendments was published in the November 20, 2019 issue of the *Louisiana Register* (LR 45:1670). No written comments or requests for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the November 20, 2019, Notice of Intent when it is published as a final rule in the February 20, 2020, issue of the *Louisiana Register*.

Should you have any questions or need additional information, please contact Jen Katzman, Medicaid Deputy Director, at Jennifer.Katzman@la.gov.

Cc: Jen Katzman, Deputy Medicaid Director, Department of Health
Veronica Dent, Medicaid Program Manager, Department of Health
Anita Dupuy, Legislative Liaison, Department of Health
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing and Office of Behavioral Health

School-Based Health Services School-Based Applied Behavior Analysis-Based Therapy Services (LAC 50:XV.9541 and XXXIII.Chapters 41-45)

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to adopt LAC 50:XV.9541 and amend LAC 50:XXXIII.Chapters 41-45 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 Behavioral Health have determined that applied behavior analysis-based (ABA) therapy services provided in school settings are covered as school-based health services in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. The department now proposes to amend the provisions governing school-based services in order to remove ABA as a school-based behavioral health service and add ABA to the EPSDT school-based health services. This action is being taken to ensure that these provisions are accurately promulgated in the Louisiana Administrative Code.

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

Chapter 95. School-Based Health Services

Subchapter E. School-Based Applied Behavior Analysis-Based
Services

§9541. General Provisions

A. Applied behavior analysis-based (ABA) therapy is the design, implementation, and evaluation of environmental modification using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including the direct observation, measurement, and functional analysis of the relations between environment and behavior. ABA-based therapies teach skills through the use of behavioral observation and reinforcement or prompting to teach each step of targeted behavior.

B. ABA services provided by local education agencies (LEAs) to eligible Medicaid recipients must be medically necessary and included on the recipient's individualized service plan (IEP), a section 504 accommodation plan, an individualized health care plan, an individualized family service plan, or medical need documentation.

C. ABA services rendered in school-based settings must be provided by, or under the supervision of, a behavior analyst who

is currently licensed by the Louisiana Behavior Analyst Board,
or a licensed psychologist or licensed medical psychologist,
hereafter referred to as the licensed professional.

D. Reimbursement. ABA services provided by individuals
working within the scope of their license are reimbursable by
Medicaid. Services will be reimbursed using the EPSDT cost
based methodology for ABA services.

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 46:

Part XXXIII. Behavioral Health Services
Subpart 5. School-Based Behavioral Health Services

Chapter 41. General Provisions

§4101. Introduction

A. The Medicaid Program hereby adopts provisions to
provide coverage under the Medicaid state plan for school-based
behavioral health services rendered to children and youth with
behavioral health disorders. These services shall be
administered under the authority of the Department of Health.

B. The school-based behavioral health services rendered
to children with emotional or behavioral disorders are medically
necessary behavioral health services provided to Medicaid
recipients in accordance with an individualized education plan

(IEP), a section 504 accommodation plan pursuant to 34 C.F.R. §104.36, an individualized health care plan, ~~an individualized family service plan,~~ or are otherwise medically necessary.

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 38:400 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2171 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:568 (April 2019), LR 46:

§4103. Recipient Qualifications

A. Individuals at least 3 years of age and under the age of 21, who meet Medicaid eligibility and clinical criteria, shall qualify to receive behavioral health services in a ~~school~~ setting determined by the IEP.

B. Qualifying children and adolescents must have been determined eligible for Medicaid and behavioral health services covered under Part B of the Individuals with Disabilities Education Act (IDEA), with a written service plan (an IEP, section 504 plan, or individualized health care plan (IHP), ~~or an individualized family service plan (IFSP)~~) which contains medically necessary services recommended by a physician or other

licensed practitioner, within the scope of his or practice under state law.

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 38:400 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2172 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:568 (April 2019), LR 46:

Chapter 43. Services

§4301. General Provisions

A. The Medicaid Program shall provide coverage for behavioral health services pursuant to §1905(a) of the Social Security Act which are addressed in the IEP, section 504 plan, IHP, ~~IFSP~~ or otherwise medically necessary, and that correct or ameliorate a child's health condition.

B. Services must be performed by qualified providers who provide school-based behavioral health services as part of their respective area of practice (e.g. psychologist providing a behavioral health evaluation and/or services). Services rendered by certified school psychologists must be supervised consistent with R.S. 17:7.1.

1. ~~Applied behavior analysis-based (ABA) services rendered in school-based settings must be provided by, or under the supervision of, a behavior analyst who is currently licensed by the Louisiana Behavior Analyst Board, or a licensed psychologist or licensed medical psychologist, hereafter referred to as the licensed professional. Payment for services must be billed by the licensed professional.~~ Repealed.

C. - E. ...

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 38:400 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2172 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:568 (April 2019), LR 46:

\$4303. Covered Services

A. School-~~based~~ behavioral health services shall include Medicaid-~~covered~~ services, including treatment and other services to correct or ameliorate an identified mental health or substance ~~abuse~~-use diagnosis. Services are provided by or through a local education agency (LEA) to children with, or

suspected of having, a disability and who attend public school in Louisiana.

B. The following school based behavioral health services shall be reimbursed under the Medicaid Program:

1. therapeutic services, including diagnosis and treatment; and

2. ~~rehabilitation services, including community psychiatric support and treatment (CPST);~~ substance use.

~~3. addiction services; and~~

~~4. environmental modification using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including the direct observation, measurement and functional analysis of the relations between environment and behavior.~~ 3. - 4. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:400 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:384 (February 2015), LR 41:2172 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:569 (April 2019), LR 46:

§4305. Service Limitations and Exclusions

A. The Medicaid Program shall not cover school based behavioral health services performed solely for educational purposes (e.g. academic testing). ~~Services~~ Only services that are ~~not~~ reflected in the IEP, section 504 plan, IHP ~~or IFSP~~ (as determined by the assessment and evaluation) or otherwise medically necessary shall ~~not~~ be covered.

B. ...

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 38:401 (February 2012), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:569 (April 2019), LR 46:

Chapter 45. Provider Participation

§4501. Local Education Agency Responsibilities

A. - E. ...

F. Providers shall maintain case records that include, at a minimum:

1. a copy of the treatment plan;
2. ~~the name of the individual~~ a copy of the IEP, IHP,
etc.;

3. the ~~dates of service~~name of the child or youth
receiving services;
4. the ~~nature, content and units of services~~
~~provided~~dates of service;
5. the ~~progress made toward functional~~
~~improvement~~nature, content and units of services provided; and
6. the ~~goals of the treatment plan.~~progress made
toward functional improvement; and
7. the goals of the treatment plan.

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 38:401
(February 2012), amended by the Department of Health and
Hospitals, Bureau of Health Services Financing and the Office of
Behavioral Health, LR 41:385 (February 2015), LR 41:2172
(October 2015), amended by the Department of Health, Bureau of
Health Services Financing and the Office of Behavioral Health,
LR 45:569 (April 2019), LR 46:

Implementation of the provisions of this Rule may be
contingent upon the approval of the U.S. Department of Health
and Human Services, Centers for Medicare and Medicaid Services
(CMS), if it is determined that submission to CMS for review and
approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the

staffing level requirements or qualifications required to provide the same level of service, 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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele 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, 2019.

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, 2019. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on December 26, 2019 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, 2019. If a public

hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH

Secretary