



State of Louisiana
Louisiana Department of Health
Office of the Secretary

February 8, 2021

Via Statutorily Prescribed Email

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

From: Dr. Courtney N. Phillips
Secretary

Re: Second Report on Proposed Amendments to LAC 50:I.Chapter 21 – Dental Benefits Prepaid Ambulatory Health Plan

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Non-Emergency Transportation, LAC 50:I.Chapter 21 – Dental Benefits Prepaid Ambulatory Health Plan.

A Notice of Intent on the proposed amendments was published in the December 20, 2020 issue of the *Louisiana Register* (LR 46:1716). No written comments were received and there was no request for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:968B-C was submitted.

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

Please contact Kevin Guillory, at kevin.guillory@la.gov, if you have any questions or require additional information about this matter.

Cc: Michael Boutte, LDH Medicaid Deputy Director
Kelly Zimmerman, LDH Interim Medicaid Deputy Director
Veronica Dent, LDH Medicaid Program Manager
Bethany Blackson, LDH Legislative Liaison
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

~~L. This Section preempts laws by township, municipal, county and other governments in the state which regulate occupational licenses and government certification.~~

~~AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3651~~

~~HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 40:2575 (December 2014), LR 44:2146 (December 2018), LR 47:~~

~~Family Impact Statement~~

~~In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, the impact of this proposed Rule on the family has been considered. It is anticipated that changes to the rules of the State Licensing Board for Contractors will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by streamlining licensure for military members and their spouses/dependents.~~

~~Poverty Impact Statement~~

~~In accordance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of the changes to the rules have been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty and may produce a positive impact in gainful employment through licensure.~~

~~Small Business Statement~~

~~In accordance with 49:965.6, the proposed changes to the rules will not have an adverse impact on small businesses. Consequently, it will ease the application and renewal processes for military applicants and/or their spouses/dependents with comparable certification/experience seeking licensure with this agency.~~

~~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 known impact on providers of services for individuals with developmental disabilities.~~

~~Interested Persons~~

~~Interested persons may submit written comments on the proposed regulations to the Licensing Board for Contractors, attention Judy Dupuy, Board Administrator, 600 North Street, Baton Rouge, LA 70802 before January 10, 2021 at 3:30 p.m.~~

~~Public Hearing~~

~~If it becomes necessary to convene a public hearing to receive comments, in accordance with the Administrative Procedures Act, a hearing will be held January 25, 2021 at 9:30 a.m. at the Louisiana State Licensing Board for Contractors at 600 North Street, Baton Rouge, LA 70802.~~

~~Michael McDuff
Executive Director~~

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

**RULE TITLE: Licensure and Exemption of Exam for
Individuals with Military Training and Experience,
Military Spouses and Dependents**

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

~~The proposed rule will have no impact on state or local governmental costs or expenditures. Implementation of the proposed rule will be carried out using existing staff and funding levels. The proposed rule would allow the LSLBC to issue a license to military personnel, spouses or dependents without examination while recognizing the license, registration or experience in another state with equivalent requirements.~~

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

~~There will be no impact on revenue. Rules were originally promulgated in 2014, and are being updated to comply with Act 200 of the 2020 Regular Legislative Session. The proposed rule change does not include any fee increases by the LSLBC.~~

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

~~A benefit will accrue to military personnel, spouses or dependents resulting in quicker licensure where equivalent licensure, training, experience exists.~~

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

~~There may be an effect on competition and employment as there will be additional and easier pathways for military members, spouses/dependents to receive licenses.~~

~~Judy Dupuy
Board Administrator
2012#020~~

~~Alan M. Boxberger
Staff Director
Legislative Fiscal Office~~

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Dental Benefits Prepaid Ambulatory Health Plan Payment Methodology (LAC 50:I.2111)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:I.2111 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the payment methodology for the dental benefits prepaid ambulatory health plan in order to allow the state to reimburse monthly capitation payments to the dental benefits plan manager (DBPM) in the aggregate on a lump sum basis when necessary, and to require DBPMs to submit medical loss ratio data to the state and issue a refund if minimum standards are not met.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Managed Care for Physical and Basic Behavioral Health

Chapter 21. Dental Benefits Prepaid Ambulatory Health Plan

§2111. Payment Methodology

A. - A.2....

3. The department or its fiscal intermediary, may reimburse a DBPM's monthly capitation payments in the

aggregate on a lump sum basis when administratively necessary.

B. - 1. ...

J. A DBPM shall have a medical loss ratio (MLR) for each MLR reporting year, which shall be a calendar year, except in circumstances in which the reporting period must be revised to align to a CMS-approved capitation rating period.

1. Following the end of the MLR reporting year, a DBPM shall provide an annual MLR report, in accordance with the financial reporting guide issued by the department.

2. The annual MLR report shall be limited to the DBPM's MLR for services provided to Medicaid enrollees and payment received under the contract with the department, separate from any other products the DBPM may offer in the state of Louisiana.

3. An MLR shall be reported in the aggregate, including all services provided under the contract, unless the department requires separate reporting and a separate MLR calculation for specific populations.

a. The MLR shall not be less than 85 percent using definitions for health care services, quality initiatives and administrative cost as specified in 42 CFR 438.8. If the MLR is less than 85 percent, the DBPM will be subject to refund the difference, within the timeframe specified, to the department. The portion of any refund due the department that has not been paid, within the timeframe specified, will be subject to interest at the current Federal Reserve Board lending rate or in the amount of 10 percent per annum, whichever is higher.

4. The department shall provide for an audit of the DBPM's annual MLR report and make public the results within 60 calendar days of finalization of the audit.

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 40:788 (April 2014), amended by the Department of Health, Bureau of Health Services Financing LR 46:953 (July 2020), LR 47:

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

Family Impact Statement

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

Poverty Impact Statement

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

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is

anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

Provider Impact Statement

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

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on January 29, 2021.

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 January 11, 2021. 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 January 28, 2021 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 January 11, 2021. 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 (corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Dental Benefits Prepaid Ambulatory Health Plan—Payment Methodology

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

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 20-21. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 20-21 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 20-21. It is anticipated that \$324 will be collected in FY 20-21 for the

federal share of the expense for promulgation of this proposed rule and the final rule.

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

This proposed Rule amends the provisions governing the payment methodology for the dental benefits prepaid ambulatory health plan in order to allow the state to reimburse monthly capitation payments to the dental benefits plan manager (DBPM) in the aggregate on a lump sum basis when necessary, and to require DBPMs to submit medical loss ratio (MLR) data to the state and issue a refund if minimum standards are not met. Implementation of this proposed Rule ensures that the dental provisions in the Louisiana Administrative Code accurately reflect the current MLR practice which is required by law. It is anticipated that implementation of this proposed rule will not result in an increase or decrease in payments to dental benefits prepaid ambulatory health plans in FY 20-21, FY 21-22 and FY 22-23, but will be beneficial by permitting aggregate lump sum payments of the monthly capitation rates.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Interim Medicaid Director
2012#053

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

**Intermediate Care Facilities for
Persons with Intellectual Disabilities
Reimbursement Methodology
(LAC 50:VII.32903)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:VII.32903 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.

Act 1 of the 2020 First Extraordinary Session of the Louisiana Legislature directed the Department of Health, Bureau of Health Services Financing to increase reimbursement rates for non-state intermediate care facilities for persons with intellectual disabilities (ICFs/IID) that downsized from over 100 beds to less than 35 beds prior to December 31, 2010, without the benefit of a cooperative endeavor agreement. In compliance with Act 1, the department promulgated an Emergency Rule which amended the provisions governing reimbursement for non-state ICFs/IID to increase the reimbursement rates to qualifying facilities (*Louisiana Register*, Volume 46, Number 9). This proposed Rule is being promulgated in order to continue the provisions of the Emergency Rule adopted on August 25, 2020.

Title 50

PUBLIC HEALTH — MEDICAL ASSISTANCE

Part VII. Long Term Care

Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities

Chapter 329. Reimbursement Methodology

Subchapter A. Non-State Facilities

§32903. Rate Determination

A. — M. —

N. Pursuant to the provisions of Act 1 of the 2020 First Extraordinary Session of the Louisiana Legislature, effective for dates of service on or after July 1, 2020, private ICF/IID facilities that downsized from over 100 beds to less than 35 beds prior to December 31, 2010 without the benefit of a cooperative endeavor agreement (CEA) or transitional rate and who incurred excessive capital costs, shall have their per diem rates (excluding provider fees) increased by a percent equal to the percent difference of per diem rates (excluding provider fees) they were paid as of June 30, 2019. See chart below with the applicable percentages:

	Intermittent	Limited	Extensive	Pervasive
1-8 beds	6.2 percent	6.2 percent	6.2 percent	6.1 percent
9-15 beds	3.2 percent	6.2 percent	6.2 percent	6.1 percent
16-32 beds	N/A	N/A	N/A	
33+ beds	N/A	N/A	N/A	

1. The applicable differential shall be applied anytime there is a change to the per diem rates (for example, during rebase, rate reductions, inflationary changes, or special legislative appropriations). This differential shall not extend beyond December 31, 2024.

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 31:2253 (September 2005), amended LR 33:462 (March 2007), LR 33:2202 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1555 (July 2010), LR 37:3028 (October 2011), LR 39:1780 (July 2013), LR 39:2766 (October 2013), LR 41:539 (March 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 as it ensures the continuation of service options for families who may be experiencing difficulty caring for



State of Louisiana

Louisiana Department of Health
Office of the Secretary

February 8, 2021

Via Statutorily Prescribed Email

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

From: Dr. Courtney N. Phillips
Secretary

Re: Second Report on Proposed Amendments to Proposed Amendments to LAC
50:VII.32903 – Intermediate Care Facilities for Persons with Intellectual
Disabilities Reimbursement Methodology

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Intermediate Care Facilities for Persons with Intellectual Disabilities Reimbursement Methodology rule amendment.

A Notice of Intent on the proposed amendments was published in the December 20, 2020 issue of the *Louisiana Register* (LR 46:1718). No written comments were received and there was no request for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:968B-C was submitted.

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

Please contact Lana Ryland, at lane.ryland@la.gov, and Andrew Perilloux, at Andrew.perilloux@la.gov, if you have any questions or require additional information about this matter.

Cc: Kelly Zimmerman, LDH Interim Deputy Medicaid Director
Daniel Cochran, LDH Medicaid Deputy Director
Veronica Dent, LDH Medicaid Program Manager
Bethany Blackson, LDH Legislative Liaison
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

~~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 OR NONGOVERNMENTAL GROUPS (Summary)~~

~~This proposed Rule amends the provisions governing the payment methodology for the dental benefits prepaid ambulatory health plan in order to allow the state to reimburse monthly capitation payments to the dental benefits plan manager (DBPM) in the aggregate on a lump sum basis when necessary, and to require DBPMs to submit medical loss ratio (MLR) data to the state and issue a refund if minimum standards are not met. Implementation of this proposed Rule ensures that the dental provisions in the Louisiana Administrative Code accurately reflect the current MLR practice which is required by law. It is anticipated that implementation of this proposed rule will not result in an increase or decrease in payments to dental benefits prepaid ambulatory health plans in FY 20-21, FY 21-22 and FY 22-23, but will be beneficial by permitting aggregate lump sum payments of the monthly capitation rates.~~

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

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

Tara A. LeBlanc
Interim Medicaid Director
2012#053

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

**Intermediate Care Facilities for
Persons with Intellectual Disabilities
Reimbursement Methodology
(LAC 50:VII.32903)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:VII.32903 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.

Act 1 of the 2020 First Extraordinary Session of the Louisiana Legislature directed the Department of Health, Bureau of Health Services Financing to increase reimbursement rates for non-state intermediate care facilities for persons with intellectual disabilities (ICFs/IID) that downsized from over 100 beds to less than 35 beds prior to December 31, 2010, without the benefit of a cooperative endeavor agreement. In compliance with Act 1, the department promulgated an Emergency Rule which amended the provisions governing reimbursement for non-state ICFs/IID to increase the reimbursement rates to qualifying facilities (*Louisiana Register*, Volume 46, Number 9). This proposed Rule is being promulgated in order to continue the provisions of the Emergency Rule adopted on August 25, 2020.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care

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

Chapter 329. Reimbursement Methodology

Subchapter A. Non-State Facilities

§32903. Rate Determination

A. - M. ...

N. Pursuant to the provisions of Act 1 of the 2020 First Extraordinary Session of the Louisiana Legislature, effective for dates of service on or after July 1, 2020, private ICF/IID facilities that downsized from over 100 beds to less than 35 beds prior to December 31, 2010 without the benefit of a cooperative endeavor agreement (CEA) or transitional rate and who incurred excessive capital costs, shall have their per diem rates (excluding provider fees) increased by a percent equal to the percent difference of per diem rates (excluding provider fees) they were paid as of June 30, 2019. See chart below with the applicable percentages:

	Intermittent	Limited	Extensive	Pervasive
1-8 beds	6.2 percent	6.2 percent	6.2 percent	6.1 percent
9-15 beds	3.2 percent	6.2 percent	6.2 percent	6.1 percent
16-32 beds	N/A	N/A	N/A	
33+ beds	N/A	N/A	N/A	

1. The applicable differential shall be applied anytime there is a change to the per diem rates (for example, during rebase, rate reductions, inflationary changes, or special legislative appropriations). This differential shall not extend beyond December 31, 2024.

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 31:2253 (September 2005), amended LR 33:462 (March 2007), LR 33:2202 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1555 (July 2010), LR 37:3028 (October 2011), LR 39:1780 (July 2013), LR 39:2766 (October 2013), LR 41:539 (March 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 as it ensures the continuation of service options for families who may be experiencing difficulty caring for

impacted recipients and allows those recipients to continue receiving appropriate care in the appropriate settings.

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, 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 increases payments to providers.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on January 29, 2021.

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 January 11, 2021. 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 January 28, 2021 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 January 11, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the

Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Intermediate Care Facilities for Persons with Intellectual Disabilities Reimbursement Methodology

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 \$344,117 for FY 20-21, \$386,150 for FY 21-22 and \$386,150 for FY 22-23. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 20-21 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$740,051 for FY 20-21, \$798,054 for FY 21-22, and \$798,054 for FY 22-23. It is anticipated that \$270 will be collected in FY 20-21 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This proposed rule, in compliance with Act 1 of the 2020 First Extraordinary Session of the Louisiana Legislature, continues the provisions of the Emergency Rule adopted on August 25, 2020 which amended the provisions governing reimbursement for non-state intermediate care facilities for persons with intellectual disabilities (ICFs/IID) to increase reimbursement rates for facilities that downsized from over 100 beds to less than 35 beds prior to December 31, 2010, without the benefit of a cooperative endeavor agreement. This proposed Rule will be beneficial to recipients whose families may be experiencing difficulty caring for them by ensuring the continuation of service options and allowing them to continue receiving appropriate care in the appropriate settings. Qualifying ICFs/IID will benefit from implementation of this proposed Rule as it increases reimbursement rates. It is anticipated that implementation of this proposed Rule will increase expenditures for ICFs/IID by approximately \$1,083,628 for FY 20-21, \$1,184,204 for FY 21-22, and \$1,184,204 for FY 22-23.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Interim Medicaid Director
2012#055

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Medical Transportation Program Non-Emergency Medical Transportation (LAC 50:XXVII.541)

~~The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XXVII.541 in the Medical Assistance Program as authorized by R.S. 36:254~~

John Bel Edwards
GOVERNOR



Dr. Courtney N. Phillips
SECRETARY

State of Louisiana
Louisiana Department of Health
Office of the Secretary

February 8, 2021

Via Statutorily Prescribed Email

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

From: Dr. Courtney N. Phillips
Secretary

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

Re: Second Report on Proposed Amendments to LAC 50:XXVII.541 – Non-Emergency Medical Transportation

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Non-Emergency Transportation, LAC 50:XXVII.541 – Non-Emergency Medical Transportation.

A Notice of Intent on the proposed amendments was published in the December 20, 2020 issue of the *Louisiana Register* (LR 46:1719). No written comments were received and there was no request for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:968B-C was submitted.

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

Please contact Justin Owens, at Justin.Owens@la.gov, if you have any questions or require additional information about this matter.

Cc: Michael Boutte, LDH Medicaid Deputy Director
Kelly Zimmerman, LDH Interim Medicaid Deputy Director
Veronica Dent, LDH Medicaid Program Manager
Bethany Blackson, LDH Legislative Liaison
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

impacted recipients and allows those recipients to continue receiving appropriate care in the appropriate settings.

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, 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 increases payments to providers.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on January 29, 2021.

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 January 11, 2021. 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 January 28, 2021 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 January 11, 2021. 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 (corner from the Bienville Building). Validated parking for the

Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Intermediate Care Facilities for Persons with Intellectual Disabilities Reimbursement Methodology

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 \$344,117 for FY 20-21, \$386,150 for FY 21-22 and \$386,150 for FY 22-23. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 20-21 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$740,051 for FY 20-21, \$798,054 for FY 21-22, and \$798,054 for FY 22-23. It is anticipated that \$270 will be collected in FY 20-21 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This proposed rule, in compliance with Act 1 of the 2020 First Extraordinary Session of the Louisiana Legislature, continues the provisions of the Emergency Rule adopted on August 25, 2020 which amended the provisions governing reimbursement for non-state intermediate care facilities for persons with intellectual disabilities (ICFs/IID) to increase reimbursement rates for facilities that downsized from over 100 beds to less than 35 beds prior to December 31, 2010, without the benefit of a cooperative endeavor agreement. This proposed Rule will be beneficial to recipients whose families may be experiencing difficulty caring for them by ensuring the continuation of service options and allowing them to continue receiving appropriate care in the appropriate settings. Qualifying ICFs/IID will benefit from implementation of this proposed Rule as it increases reimbursement rates. It is anticipated that implementation of this proposed Rule will increase expenditures for ICFs/IID by approximately \$1,083,628 for FY 20-21, \$1,184,204 for FY 21-22, and \$1,184,204 for FY 22-23.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Interim Medicaid Director
2012#055

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Medical Transportation Program Non-Emergency Medical Transportation (LAC 50:XXVII.541)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XXVII.541 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 Procedures Act, R.S. 49:950 et seq.

Federal regulations require minimum liability insurance for any vehicle with a seating capacity of 15 passengers or less, including the driver, for interstate non-emergency medical transportation (NEMT) travel. The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing provider enrollment in the NEMT program to increase the minimum liability insurance for providers of transportation to out-of-state medical or behavioral health services in order to comply with the federal requirements for interstate NEMT travel.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXVII. Medical Transportation Program

Chapter 5. Non-Emergency Medical Transportation

Subchapter C. Provider Responsibilities

§541. Provider Enrollment

A. - C. ...

D. As a condition of participation for out-of-state transport, providers of transportation to out-of-state medical or behavioral health services must be in compliance with all applicable federal intrastate commerce laws regarding such transportation, including but not limited to, the \$1,500,000 insurance requirement.

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, Office of the Secretary, Bureau of Health Services Financing, LR 20:1115-1117 (October 1994), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1092 (July 2016), LR 46:694 (May 2020), LR 47:

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

Family Impact Statement

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

Poverty Impact Statement

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

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule may negatively impact some small businesses, as described in R.S. 49:965.2 et seq., as increased insurance rates could result in additional costs for some.

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 staffing level requirements or qualifications changes in order to provide the same level of service, but may increase direct or indirect cost to some providers to provide the same level of service due to the increase in liability insurance costs. The proposed Rule may also have a negative impact on some providers' ability to provide the same level of service as described in HCR 170 if the increase in costs adversely impacts the provider's financial standing.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to this proposed Rule. The deadline for submitting written comments is at close of business, 4:30 p.m., on January 29, 2021.

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 January 11, 2021. 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 January 28, 2021 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 January 11, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Medical Transportation Program Non-Emergency Medical Transportation

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

It is anticipated that the implementation of this proposed Rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 20-21. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 20-21 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of promulgation costs for FY 20-21. It is anticipated that \$270 will be collected in FY 20-21 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This proposed rule amends the provisions governing provider enrollment in the non-emergency medical transportation (NEMT) program in order to increase the minimum liability insurance for providers of transportation to out-of-state medical or behavioral health services to comply with federal requirements for interstate NEMT travel. It is anticipated that implementation of this proposed rule will result in increased costs to NEMT providers in FY 20-21, FY 21-22 and FY 22-23 due to the increase in the required level of insurance for out-of-state transports.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Interim Medicaid Director
2012#057

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Nursing Facilities—Non-Emergency Transportation for Medical Appointments (LAC 50:II.10137)

~~The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:II.10137 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 standards for payment for nursing facilities in order to clarify the provisions governing non-emergency transportation for medical appointments.~~

~~Title 50~~

~~PUBLIC HEALTH—MEDICAL ASSISTANCE~~

~~Part II. Nursing Facilities~~

~~Subpart 3. Standards for Payment~~

~~Chapter 101. Standards for Payment for Nursing Facilities~~

~~Subchapter D. Resident Care Services~~

~~§10137. Ancillary Services~~

~~A. D.5...~~

~~E. Non-Emergency Transportation for Medical Appointments~~

~~1. It is the responsibility of the nursing facility to arrange for or provide its residents with non-emergency transportation to all necessary medical appointments when use of an ambulance is not appropriate. This includes wheelchair bound residents and those residents going to therapies and hemodialysis. Transportation shall be provided~~

~~to the nearest available qualified provider of routine or specialty care within reasonable proximity to the facility. Residents can be encouraged to utilize medical providers of their choice in the community in which the facility is located when they are in need of transportation services. It is also acceptable if the facility or legal representative/sponsor chooses to transport the resident.~~

~~2. If non-emergency transportation is required, and it is medically necessary for the resident to be transported to a necessary medical appointment by ambulance, the nursing facility will be responsible for contacting the appropriate managed care organization (MCO) or fee-for-service (FFS) transportation representative and submitting the completed Certification of Ambulance Transportation form to the MCO or FFS representative prior to the scheduled pick-up time.~~

~~F. ...~~

~~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 22:34 (January 1996), amended by the Department of Health, Bureau of Health Services Financing, LR 47:~~

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

~~Family Impact Statement~~

~~In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule 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 Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this~~



State of Louisiana
Louisiana Department of Health
Office of the Secretary

February 8, 2021

Via Statutorily Prescribed Email

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

From: Dr. Courtney N. Phillips
Secretary

Re: Second Report on Proposed Amendments to LAC 50:II.Chapter 101 – Nursing Facilities – Non-Emergency Medical Transportation for Medical Appointments

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Non-Emergency Transportation, LAC 50:II.Chapter 101 – Nursing Facilities – Non-Emergency Medical Transportation for Medical Appointments.

A Notice of Intent on the proposed amendments was published in the December 20, 2020 issue of the *Louisiana Register* (LR 46:1721). No written comments were received and there was no request for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:968B-C was submitted.

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

Please contact Justin Owens, at Justin Owens, at Justin.Owens@la.gov, and Andrew Perilloux, at Andrew.Perilloux@la.gov, if you have any questions or require additional information about this matter.

Cc: Michael Boutte, LDH Medicaid Deputy Director
Daniel Cochran, LDH Medicaid Deputy Director
Kelly Zimmerman, LDH Interim Medicaid Deputy Director
Veronica Dent, LDH Medicaid Program Manager
Bethany Blackson, LDH Legislative Liaison
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

~~It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of promulgation costs for FY 20-21. It is anticipated that \$270 will be collected in FY 20-21 for the federal share of the expense for promulgation of this proposed rule and the final rule.~~

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

~~This proposed rule amends the provisions governing provider enrollment in the non-emergency medical transportation (NEMT) program in order to increase the minimum liability insurance for providers of transportation to out-of-state medical or behavioral health services to comply with federal requirements for interstate NEMT travel. It is anticipated that implementation of this proposed rule will result in increased costs to NEMT providers in FY 20-21, FY 21-22 and FY 22-23 due to the increase in the required level of insurance for out of state transports.~~

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

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

Tara A. LeBlanc
Interim Medicaid Director
2012#057

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

**Nursing Facilities—Non-Emergency
Transportation for Medical Appointments
(LAC 50:II.10137)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:II.10137 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 standards for payment for nursing facilities in order to clarify the provisions governing non-emergency transportation for medical appointments.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Nursing Facilities

Subpart 3. Standards for Payment

**Chapter 101. Standards for Payment for Nursing
Facilities**

Subchapter D. Resident Care Services

§10137. Ancillary Services

A. - D.5....

**E. Non-Emergency Transportation for Medical
Appointments**

1. It is the responsibility of the nursing facility to arrange for or provide its residents with non-emergency transportation to all necessary medical appointments when use of an ambulance is not appropriate. This includes wheelchair bound residents and those residents going to therapies and hemodialysis. Transportation shall be provided

to the nearest available qualified provider of routine or specialty care within reasonable proximity to the facility. Residents can be encouraged to utilize medical providers of their choice in the community in which the facility is located when they are in need of transportation services. It is also acceptable if the facility or legal representative/sponsor chooses to transport the resident.

2. If non-emergency transportation is required, and it is medically necessary for the resident to be transported to a necessary medical appointment by ambulance, the nursing facility will be responsible for contacting the appropriate managed care organization (MCO) or fee-for-service (FFS) transportation representative and submitting the completed Certification of Ambulance Transportation form to the MCO or FFS representative prior to the scheduled pick-up time.

F. ...

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 22:34 (January 1996), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule 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 Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this

proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on January 29, 2021.

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 January 11, 2021. 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 January 28, 2021 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 January 11, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Nursing Facilities Non-Emergency Transportation for Medical Appointments

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

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 20-21. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 20-21 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 20-21. It is anticipated that \$270 will be collected in FY 20-21 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This proposed rule amends the standards for payment for nursing facilities in order to clarify the provisions governing non-emergency transportation for medical appointments. Providers will be impacted by implementation of this proposed Rule since it adds language to the Louisiana Administrative Code which requires nursing facilities to contact the appropriate managed care organization or fee-for-service transportation representative and submit the necessary documentation when arranging non-emergency ambulance transportation for medical appointments for recipients. It is anticipated that implementation of this proposed Rule will not

result in any increase or decrease in payments to providers in FY 20-21, 21-22, and 22-23 but will be beneficial by ensuring that the provisions are clearly and accurately promulgated in the Louisiana Administrative Code.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Interim Medicaid Director
2012#058

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Office for Citizens with Developmental Disabilities

Council on the Purchase of Goods and Services of Individuals with Disabilities (LAC 67:VII Chapter 9)

~~Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Health, Office for Citizens with Developmental Disabilities (LDH OCDD), hereby proposes to amend LAC 67:Part VII Rehabilitation Services, Chapter 9 Council on the Purchase of Goods and Services of Individuals with Disabilities. The intent of the proposed amendment will allow individuals with disabilities to work alongside individuals without disabilities in non-segregated settings earning a fair wage. The proposed Rule also includes changes to remove references to sheltered workshops and replace with supported employment provider in addition to making the necessary people first language changes. The proposed amendment is to update the Rule pursuant to ACT 312 of the 2019 Regular Legislative Session.~~

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 9. Council on the Purchase of Goods and Services of Individuals with Disabilities

§901. General Rules

~~A. The purpose of this program is to further the state of Louisiana's policy of encouraging and assisting individuals with disabilities to achieve maximum personal independence by engaging in useful and productive employment activities and, in addition, to provide state agencies, departments, and institutions and political subdivisions of the state with a method for achieving conformity with requirements of nondiscrimination and affirmative action in employment matters related to individuals with disabilities. This program will provide employment opportunities for individuals with disabilities, thereby reducing their need for financial and other forms of assistance from government.~~

~~B. The Program for the Purchase of Goods and Services Provided by Individuals with Disabilities created pursuant to R.S. 39:1604.4, which provides that every agency gives a preference in its purchasing practices to goods manufactured and services performed by individuals with disabilities, shall be called the State Use Council for the Purchase of Goods and Services Provided by Individuals with Disabilities hereinafter called Council.~~