

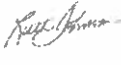


State of Louisiana
Louisiana Department of Health
Office of the Secretary

February 8, 2022

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 LAC 48:I.6882 – Adult Residential Care Providers – Licensing Standards

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Adult Residential Care Providers – Licensing Standards, LAC 48:I.6882.

A Notice of Intent on the proposed amendments was published in the December 20, 2021 issue of the *Louisiana Register* (LR 47:2012). 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, 2021, Notice of Intent when it is published as a final rule in the March 20, 2022, issue of the *Louisiana Register*.

Please contact Cynthia York, at cynthia.york@la.gov, if you have any questions or require additional information about this matter.

Cc: Tasheka Dukes, RN, Assistant Secretary HSS, LDH
Veronica Dent, Medicaid Program Manager, LDH
Bethany Blackson, Legislative Liaison, LDH
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Adult Residential Care Providers Licensing Standards (LAC 48:I.6882)

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions of LAC 48:I.6882 as authorized by R.S. 36:254 and R.S. 40:2166.1-2166.8. 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 licensing of adult residential care providers (ARCPs) in order to extend the timeframe the ARCP is allowed to inactivate its license due to a declared emergency or disaster from one year to two years.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 68. Adult Residential Care Providers

Subchapter G. Emergency Preparedness

§6882. Inactivation of License Due to a Declared Disaster or Emergency

A. An ARCP licensed in a parish which is the subject of an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766, may seek to inactivate its license for a period not to exceed two years, provided that the following conditions are met:

1. - 1.e....

2. the licensed ARCP resumes operating as an ARCP in the same service area within two years of the issuance of an executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766;

A.3. - B....

C. Upon completion of repairs, renovations, rebuilding or replacement, an ARCP which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met.

1. - 1.b....

2. The provider resumes operating as an ARCP in the same service area within two years.

D. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:1505 (October 2021), amended LR 48:

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 a positive impact on small businesses, as described in R.S. 49:978.1 et seq. as it allows those affected by emergencies to inactivate their licenses for an additional year.

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 Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on January 31, 2022.

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 10, 2022. 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 27, 2022 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 10, 2022. 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: Adult Residential Care Providers
Licensing Standards**

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

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 21-22. It is anticipated that \$540 will be expended in FY 21-22 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 since the licensing fees, in the same amounts, will continue to be collected.

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

The proposed rule amends the provisions governing the licensing of adult residential care providers (ARCPs) in order to extend the timeframe the ARCP is allowed to inactivate its license due to a declared emergency or disaster from one year to two years. It is anticipated that implementation of this proposed rule will not result in costs to ARCPs in FY 21-22, FY 22-23 and FY 23-24, but will be beneficial to these providers by allowing additional time for inactivation of license due to a declared emergency or disaster.

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

This rule has no known effect on competition and employment.

Tasheka Dukes, RN
Deputy Assistant Secretary
2111#047

Alan M. Boxberger
Deputy Fiscal Officer
Legislative Fiscal Office




State of Louisiana
Louisiana Department of Health
Office of the Secretary

February 8, 2022

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 LAC 48:I.9573 – Hospital Licensing Standards – Newborn Safety Devices

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Hospital Licensing Standards – Newborn Safety Devices, LAC 48:I. 9573.

A Notice of Intent on the proposed amendments was published in the December 20, 2021 issue of the *Louisiana Register* (LR 47:2015). 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, 2021, Notice of Intent when it is published as a final rule in the March 20, 2022, issue of the *Louisiana Register*.

Please contact Cynthia York, at cynthia.york@la.gov, if you have any questions or require additional information about this matter.

Cc: Tasheka Dukes, RN, Assistant Secretary HSS, LDH
Veronica Dent, Medicaid Program Manager, LDH
Bethany Blackson, Legislative Liaison, LDH
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Hospital Licensing Standards Newborn Safety Devices (LAC 48:I.9573)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 48:I.9573 as authorized by R.S. 36:254 and 40:2100 et seq. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 421 of the 2021 Regular Session of the Louisiana Legislature authorized the Department of Health to regulate the installation of newborn safety devices (NSDs) located inside of hospital facilities which have 24-hour emergency departments. In compliance with Act 421, the Department of Health, Bureau of Health Services Financing proposes to adopt provisions governing the installation and use of NSDs in hospitals.

Title 48

PUBLIC HEALTH-GENERAL

Part I. General Administration

Subpart 3. Licensing and Administration

Chapter 93. Hospitals

Subchapter V. Newborn Safety Devices

§9573. General Provisions

A. In accordance with the Louisiana Children's Code (La. Ch. Code 1149 et seq.), a parent may leave an infant in a newborn safety device (NSD) that is physically located inside a facility which is licensed as a hospital in accordance with R.S. 40:2100 et seq., and has an emergency department that is staffed 24 hours per day.

B. Each NSD shall meet all of the following specifications:

1. voluntarily installed in the designated hospital;
2. installed in a location that ensures the anonymity of the relinquishing parent;
3. installed in a climate-controlled environment consistent with the internal temperature of the hospital;
4. installed by a licensed contractor in accordance with manufacturer's recommendations;
5. have an access door that locks automatically upon closure when an infant is in the device;
6. have a supporting frame that is anchored so as to align the bed portion of the NSD directly beneath the access door and prevent movement of the unit as a whole; and

7. feature a safe sleep environment which includes a firm, flat bassinet mattress and a sheet that fits snugly on and overlaps the mattress, and is free of pillows, bumpers, blankets and other bedding.

C. The hospital shall post appropriate signage approved by the Department of Children and Family Services at the site of the NSD that clearly identifies the NSD, and provides both written and pictorial instruction to the relinquishing parent to open the access door, place the infant inside the NSD and close the access door to engage the lock. The signage shall also clearly indicate all of the following:

1. the maximum age of the infant who may be relinquished in accordance with the Louisiana Children's Code;

2. that the infant must not have been previously subjected to abuse or neglect; and

3. that by placing an infant in the NSD, a parent is foregoing all parental responsibilities with response to the infant, and is giving consent for the state to take custody of the infant.

D. The hospital shall be responsible for:

1. the cost of the installation of the NSD;

2. installation of an adequate dual alarm system that shall be connected to the physical location of the NSD. The hospital shall ensure all of the following with respect to the alarm system:

- a. the alarm system generates an audible alarm at a central location within the facility 60 seconds after the opening of the access door to the NSD;

- b. the alarm system generates an automatic call to 911 if the alarm is activated and not turned off from within the hospital less than 60 seconds after the commencement of the initial alarm;

- c. the alarm system is tested at least one time per week to ensure that it is in working order; and

- d. the alarm system is visually checked at least two times per day to ensure that it is in working order.

3. obtaining Department of Health (LDH), Health Standards Section (HSS) approval prior to the use of the NSD; and

4. submission of written notification to the LDH, HSS of the hospital's intent to implement the use of the device.

E. Prior to use of the NSD, an onsite survey shall be conducted by the LDH, HSS.

F. The hospital shall ensure that the device is checked at least daily for debris and is cleaned and sanitized with a hospital-quality disinfectant at least weekly and after any infant relinquishment into the NSD.

G. The hospital shall maintain documentation of the testing of the alarm system and the cleaning and sanitation of the NSD.

H. The hospital shall install a cardholder adjacent to the NSD and shall keep the cardholder stocked with safe haven informational cards and other safe haven informational materials produced in accordance with La. Ch. Code 1160 and required by the Department of Children and Family Services.

I. The hospital shall develop and implement written policies and procedures that include, but are not limited to, receiving an infant who has been relinquished into the NSD, the use of an adequate NSD alarm system, testing of the NSD alarm system, cleaning of the NSD, documentation,

and training of staff responsible for implementing the policies and procedures of the NSD, in accordance with La. Ch. Code 1149 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:

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. 49:978.1 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, but will have an impact on hospital facilities that choose to have a newborn safety device installed as the hospital will be responsible for paying for the device as well as its installation and maintenance.

Public Comments

Interested persons may submit written comments to Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on January 31, 2022.

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 10, 2022. 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 27, 2022 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 10, 2022. 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: Hospital Licensing Standards
Newborn Safety Devices**

**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 21-22. It is anticipated that \$756 will be expended in FY 21-22 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 since the licensing fees, in the same amounts, will continue to be collected.

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

In compliance with Act 421 of the 2021 Regular Session of the Louisiana Legislature, this proposed rule adopts provisions governing the installation and use of newborn safety devices (NSDs) in hospitals. Implementation of this proposed rule will impact hospitals that elect to purchase and install NSDs, since any costs will be incurred by the hospital. Since hospitals may choose whether or not to purchase and install an NSD, it is not possible to estimate the potential impact to these providers in FY 21-22, FY 22-23 and FY 23-24, as there are currently no hospitals that have indicated their intent to pursue this option. This proposed rule will be beneficial to hospitals that pursue this option by providing guidance for the installation and use of an NSD.

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

This rule has no known effect on competition and employment.

Tasheka Dukes, RN
Deputy Assistant Secretary
2111#049

Alan M. Boxberger
Deputy Fiscal Officer
Legislative Fiscal Office

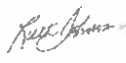


State of Louisiana
Louisiana Department of Health
Office of the Secretary

February 8, 2022

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 LAC 50:III.Chapter 23 and XV.16303 – Medicaid Eligibility –
Twelve-Months Postpartum Coverage

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Medicaid Eligibility – Twelve-Months Postpartum Coverage, LAC 50:III.Chapter 23 and XV.16303.

A Notice of Intent on the proposed amendments was published in the December 20, 2021 issue of the *Louisiana Register* (LR 47:2026). 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, 2021, Notice of Intent when it is published as a final rule in the March 20, 2022, issue of the *Louisiana Register*.

Please contact Christopher Chase, at christopher.chase@la.gov, if you have any questions or require additional information about this matter.

Cc: Tara LeBlanc, Medicaid Deputy Director, LDH
Veronica Dent, Medicaid Program Manager, LDH
Bethany Blackson, Legislative Liaison, LDH
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part III. Eligibility
Subpart 3. Eligibility Groups and Factors
Chapter 23. Eligibility Groups and Medicaid
Programs

§2315. LaMOMS Program

A. Pursuant to the provisions of the Omnibus Budget Reconciliation Act of 1986, the Department of Health, Bureau of Health Services Financing shall provide health care coverage through the LaMOMS Program to Medicaid eligible pregnant women with low income under the Medicaid state plan.

B. Eligibility Requirements. Eligibility for LaMOMS coverage may begin at any time during a pregnancy, and as early as three months prior to the month of application. Eligibility cannot begin before the first month of pregnancy. The pregnant woman must be pregnant for each month of eligibility, except for the 12-month postpartum period.

C. ...

1. Changes in income shall be disregarded during the period of pregnancy and for the 12-month postpartum period.

D. The LaMOMS program shall provide Medicaid coverage for:

1. - 3. ...

4. postpartum care during the 12-month postpartum period.

E. Certification Period

1. Eligibility for the pregnant women group may begin:

a. at any time during a pregnancy; and

b. as early as three months prior to the month of application.

2. Eligibility cannot begin before the first month of pregnancy. The pregnant women group certification may extend through the calendar month in which the 12-month postpartum period ends.

3. An applicant/enrollee whose pregnancy terminated in the month of application or in one of the three months prior without a surviving child shall be considered a pregnant woman for the purpose of determining eligibility in the pregnant women group.

4. Certification shall be from the earliest possible month of eligibility (up to three months prior to application) through the month in which the 12-month postpartum period ends.

5. Retroactive eligibility shall be explored regardless of current eligibility status.

a. If the applicant/enrollee is eligible for any of the three prior months, she remains eligible throughout the pregnancy and 12-month postpartum period. When determining retroactive eligibility, actual income received in the month of determination shall be used.

b. If application is made after the month her pregnancy ends, the period of eligibility will be retroactive but shall not start more than three months prior to the month of application. The start date of retroactive eligibility is

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Medicaid Eligibility
Twelve-Months Postpartum Coverage
(LAC 50:III.Chapter 23 and XV.16303)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:III.Chapter 23 and XV.16303 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.

House Resolution 193 (HR 193) of the 2021 Regular Session of the Louisiana Legislature requested that the Department of Health, Bureau of Health Services Financing allow for postpartum Medicaid coverage for 12 months after birth for eligible pregnant individuals. In compliance with HR 193, the Department now proposes to amend the provisions governing Medicaid eligibility to extend postpartum eligibility from 60 days to 12 months. In addition, this proposed Rule amends the provisions governing modified adjusted gross income groups in order to align the administrative Rule with the current provisions of the Medicaid State Plan approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

determined by counting back three months prior to the date of application. The start date will be the first day of that month.

6. Coverage during the 12-month postpartum period is only available to an individual who is eligible for medical assistance under the state plan while pregnant, including during a period of retroactive eligibility.

7. Eligibility may not extend past the month in which the 12-month postpartum period ends.

a. The 12-month postpartum period begins on the last day of pregnancy.

b. The 12-month postpartum period ends the last day of the month in which the 12-month postpartum period has expired.

8. The applicant/enrollee must be income eligible during the initial month of eligibility only. Changes in income after the initial month will not affect eligibility.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3299 (December 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

§2327. Modified Adjusted Gross Income (MAGI)

Groups

A. - C.3. ...

D. Pregnant Women Group

1. - 1.b....

2. Eligibility cannot begin before the first month of pregnancy. The pregnant women group certification may extend through the calendar month in which the 12-month postpartum period ends.

3. ...

4. Certification shall be from the earliest possible month of eligibility (up to three months prior to application) through the month in which the 12-month postpartum period ends.

5. ...

a. If the applicant/enrollee is eligible for any of the three prior months, she remains eligible throughout the pregnancy and 12-month postpartum period. When determining retroactive eligibility actual income received in the month of determination shall be used.

b. If application is made after the month her pregnancy ends, the period of eligibility will be retroactive but shall not start more than three months prior to the month of application. The start date of retroactive eligibility is determined by counting back three months prior to the date of application. The start date will be the first day of that month.

6. Coverage during the 12-month postpartum period is only available to an individual who is eligible for medical assistance under the state plan while pregnant, including during a period of retroactive eligibility.

7. Eligibility may not extend past the month in which the 12-month postpartum period ends.

a. The 12-month postpartum period begins on the last day of pregnancy.

b. The 12-month postpartum period ends the last day of the month in which the 12-month postpartum period has expired.

8. The applicant/enrollee must be income eligible during the initial month of eligibility only. Changes in income after the initial month will not affect eligibility.

E. - E.2.e. ...

3. Children Under Age 19—LaCHIP Affordable Plan. A child covered under the Louisiana State Children's Health Insurance Program (LaCHIP) Affordable Plan shall:

a. - e. ...

f. be a child whose custodial parent has not voluntarily dropped the child(ren) from employer sponsored insurance within the last three months without good cause. Good cause exceptions to the three month period for dropping employer sponsored insurance are:

i. the premium paid by the family for coverage of the child under the group health plan exceeded 5 percent of household income;

ii. the child's parent is determined eligible for advance payment of the premium tax credit for enrollment in a qualified health plan (QHP) through the marketplace because the employer-sponsored insurance (ESI) in which the family was enrolled is determined unaffordable in accordance with 26 CFR 1.36B-2(c)(3)(v);

iii. the cost of family coverage that includes the child exceeded 9.5 percent of the household income;

iv. the employer stopped offering coverage of dependents (or any coverage) under an employer-sponsored health insurance plan;

v. a change in employment, including involuntary separation, resulted in the child's loss of employer-sponsored insurance (other than through full payment of the premium by the parent under the Consolidated Omnibus Reconciliation Act of 1985 (COBRA));

vi. the child has special health care needs;

vii. the child lost coverage due to the death or divorce of a parent;

viii. involuntary termination of health benefits due to a long-term disability or other medical condition;

ix. the child has exhausted coverage under the COBRA continuation provision (i.e., COBRA expired); or

x. lifetime maximum has been reached.

E.4. - G. ...

1. Former foster care children may also be applicants/enrollees who:

a. have lost eligibility due to moving out of state, but re-established Louisiana residency prior to reaching age 26.

b. Repealed.

2. - 2.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 41:945 (May 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

§2331. Twelve-Months Postpartum Medicaid Coverage

A. Pursuant to the provisions of the section 9812 of the American Rescue Plan Act of 2021, the Department of Health, Bureau of Health Services Financing shall provide, during a five year period beginning April 1, 2022, that an individual who, while pregnant, is eligible for and has received medical assistance under the state plan or waiver of

such plan including during a period of retroactive eligibility, shall remain eligible for a 12-month postpartum period. The 12-month postpartum period begins on the last day of pregnancy and ends on the last day of the month in which the 12-month postpartum period has expired.

B. The medical assistance provided for the pregnant or postpartum individual shall:

1. include all items and services covered under the state plan (or waiver) that are not less in amount, duration, or scope to the medical assistance available for an individual described in section 1902(a)(10)(A)(i) of the Social Security Act; and

2. be provided for the individual while pregnant and during the 12-month period that begins on the last day of the individual's pregnancy and ends on the last day of the month in which such 12-month period ends.

C. Coverage Under CHIP. A targeted low-income child who while pregnant, is eligible for and has received title XXI child health assistance, shall remain eligible for a 12-month postpartum period. The 12-month postpartum period begins on the last day of pregnancy and ends on the last day of the month in which the 12-month postpartum period has expired.

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 48:

Part XV. Services for Special Populations

Subpart 13. Pregnant Women Extended Services

Chapter 163. Substance Use Screening and Intervention Services

§16303. Scope of Services

A. - D. ...

1. Pregnant women may receive four counseling sessions per quit attempt, up to two quit attempts per calendar year. Limits may be exceeded, based on medical necessity. The period of coverage for these services shall include the prenatal period through 12-month postpartum period. Services shall be provided:

a. - b.ii. ...

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 46:184 (February 2020), LR 46:954 (July 2020), LR 48:

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 extends Medicaid coverage for recipients from 60 days postpartum to 12 months.

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 extends Medicaid coverage for recipients from 60 days postpartum to 12 months.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule may have a positive impact on small businesses, as described in R.S. 49:978.1 et seq., since it permits Medicaid reimbursement for the provision of services to qualified mothers.

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 permits Medicaid reimbursement for the provision of services to qualified recipients.

Public Comments

Interested persons may submit written comments to Patrick Gillies, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. Mr. Gillies is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on January 31, 2022.

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 10, 2022. 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 27, 2022 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 10, 2022. 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: Medicaid Eligibility
Twelve-Months Postpartum Coverage**

**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 general fund costs of approximately \$317,398 for FY 21-22, \$2,757,349 for FY 22-23 and \$2,818,831 for FY 23-24. It is anticipated that \$1,512 (\$756 SGF and \$756 FED) will be expended in FY 21-22 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 \$1,146,187 for FY 21-22, \$8,870,551 for FY 22-23, and \$9,113,550 for FY 23-24. It is anticipated that \$756 will be collected in FY 21-22 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 House Resolution 193 of the 2021 Regular Session of the Louisiana Legislature, amends the provisions governing Medicaid eligibility to extend postpartum eligibility from 60 days to 12 months and amends the provisions governing Modified Adjusted Gross Income Groups in order to align the administrative rule with the current provisions of the Medicaid State Plan approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services. This proposed rule will be beneficial to qualified recipients by extending their access to Medicaid services. Providers will benefit from implementation of this proposed rule since they will receive reimbursement for the provision of services that were previously not covered for this population. It is anticipated that implementation of this proposed rule will increase expenditures in the Medicaid program by approximately \$1,462,073 for FY 21-22, \$11,627,900 for FY 22-23, and \$11,932,381, for FY 23-24.

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

This rule has no known effect on competition and employment.

Patrick Gillies
Medicaid Executive Director
2111#051

Alan M. Boxberger
Deputy Fiscal Officer
Legislative Fiscal Office