



State of Louisiana
Louisiana Department of Health
Office of the Secretary

June 6, 2017

M E M O R A N D U M

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Taylor F. Barras, Speaker of the House
The Honorable Fred H. Mills, Jr., Chairman, Senate Committee on Health and Welfare
The Honorable Frank A. Hoffmann, Chairman, House Committee on Health and Welfare
The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FROM: Rebekah E. Gee MD, MPH
Secretary

Approved
R

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Behavioral Health Service Providers - Licensing Standards.

The Department published a Notice of Intent on this proposed Rule in the April 20, 2017 issue of the *Louisiana Register* (Volume 43, Number 4). A public hearing was held on May 25, 2017 at which members of the public and Louisiana Department of Health staff listed on the attached attendance roster were present. No oral testimony was given or written comments received regarding this proposed Rule.

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

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

REG/WJR/RKA

Attachments (3)

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Behavioral Health Service Providers Licensing Standards (LAC 48:I.Chapter 56)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapter 56 as authorized by R.S. 36:254 and R.S. 40:2151-2161. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing repealed LAC 48:I.Chapter 74 governing the licensing standards for substance abuse/addiction treatment facilities and LAC 48:III.Chapter 5 governing the licensing standards for mental health clinics. In compliance with the directives of Act 308 of the 2013 Regular Session of the Louisiana Legislature, the department also adopted LAC 48:I.Chapter 56 to establish licensing standards for behavioral health service providers (*Louisiana Register*, Volume 41, Number 9).

The Department of Health, Bureau of Health Services Financing now proposes to amend the provisions governing licensing standards for behavioral health service providers in order to: 1) clarify the existing provisions; 2) ensure consistency with other licensing Rules, regulations and

processes; and 3) establish provisions governing partial hospitalization services for substance abuse treatment.

Title 48

PUBLIC HEALTH-GENERAL Part 1. General Administration Subpart 3. Licensing

Chapter 56. Behavioral Health Service Providers

Subchapter A. General Provisions

§5601. Introduction

A. Pursuant to R.S. 40:2151-2161, the Department of Health (LDH) hereby establishes licensing standards for behavioral health service (BHS) providers. The purpose of these Chapters is to provide for the development, establishment and enforcement of statewide licensing standards for the care of clients receiving services from BHS providers, to ensure the maintenance of these standards, and to regulate conditions of these providers through a program of licensure that shall promote safe and adequate treatment of clients of BHS providers.

B. - E.11. ...

12. school-based health clinics/centers that are certified by the Department of Health, Office of Public Health, and enrolled in the Medicaid Program;

13. - 14.b. ...

c. maintains continuous, uninterrupted accreditation through an LDH authorized accreditation organization;

d. maintained continuous, uninterrupted enrollment with the statewide management organization for the LBHP, and maintains continuous, uninterrupted enrollment with Medicaid managed care entities as of December 1, 2015;

NOTE: This exemption from licensure encompasses those mental health rehabilitation providers performing mental health rehabilitation services as previously regulated by the Medicaid Mental Health Rehabilitation Program. It does not include a mental health rehabilitation provider that performs other services that were not previously regulated under the Medicaid Mental Health Rehabilitation Program (e.g. addiction services, inpatient services, residential services). If a mental health rehabilitation provider performs behavioral health services in addition to those previously regulated under the Medicaid Mental Health Rehabilitation Program, the provider shall be licensed according to these licensing rules.

15. - 17. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1682 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5603. Definitions

* * *

Department—the Louisiana Department of Health (LDH) or any office or agency thereof designated by the secretary to administer the provisions of this Chapter.

* * *

DHH Authorized Accreditation Organization Repealed.

* * *

Health Standards Section (HSS)—the licensing and certification section of the Department of Health.

* * *

Intensive Outpatient Treatment Program (ASAM Level II.1)—professionally directed assessment, diagnosis, treatment and recovery services provided in an organized non-residential treatment setting, including individual, group, family counseling and psycho-education on recovery as well as monitoring of drug use, medication management, medical and psychiatric examinations, crisis mitigation coverage and orientation to community-based support groups. Services may be offered during the day, before or after work or school, in the evening or on a weekend, and the program shall provide nine or more hours of structured programming per week for adults and six or more hours of structured programming per week for children/adolescents.

LDH Authorized Accreditation Organization—any organization authorized by LDH to accredit behavioral health providers.

* * *

Mental Health Clinic—an entity through which outpatient behavioral health services are provided, including screening, diagnosis, management or treatment of a mental disorder, mental illness, or other psychological or psychiatric condition or problem and 24-hour emergency services that are provided either directly or through formal affiliation with other agencies by an interdisciplinary team of mental health professionals and subordinates in accordance with a plan of treatment or under the direction of a psychiatrist or another qualified physician with psychiatric consultation.

Mental Health Rehabilitation (MHR)—an outpatient healthcare program provider of any psychosocial rehabilitation (PSR), crisis intervention (CI) and/or community psychiatric support and treatment (CPST) services that promotes the restoration of community functioning and well-being of an individual diagnosed with a mental health or mental or emotional disorder. The MHR provider utilizes evidence based supports and interventions designed to improve individual and community outcomes.

Mental Health Rehabilitation Services (MHRS)—outpatient services for adults with serious mental illness and children with emotional/behavioral disorders which are medically

necessary to reduce the disability resulting from mental illness and assist in the recovery and resiliency of the recipient. These services are home and community-based and are provided on an as needed basis to assist recipients in coping with the symptoms of their illness. The intent of MHRS is to minimize the disabling effects on the individual's capacity for independent living and to prevent or limit the periods of inpatient treatment.

OBH—the LDH Office of Behavioral Health.

* * *

OPH—the LDH Office of Public Health.

* * *

Partial Hospital Program (PHP-ASAM Level II.5)—an organized outpatient service that delivers treatment to adolescents and adults. This level encompasses services that meet the multidimensional instability and complex needs of people with addiction and co-occurring conditions which do not require 24-hour care.

* * *

Registered Addiction Counselor (RAC)—pursuant to R.S. 37:3387.2, any person who, by means of his/her specific knowledge acquired through formal education and practical experience, is qualified to provide addictive disorder

counseling services and is registered by the ADRA as a RAC. The RAC may not practice independently and may not render a diagnostic impression.

* * *

Secretary—the secretary of the Department of Health or his/her designee.

* * *

Take-Home Dose(s)—a dose of opioid agonist treatment medication dispensed by a dispensing physician or pharmacist to a client for unsupervised use, including for use on Sundays, state and federal holidays, and emergency closures per LDH directive

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1682 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter B. Licensing

§5605. General Provisions

A. All BHS providers shall be licensed by the LDH. It shall be unlawful to operate as a BHS provider without a license issued by the department.

B.- C.1. ...

2. be valid only for the BHS provider to which it is issued and only for one geographic address of that provider approved by LDH;

C.3. - D.1. ...

a. have established operational hours for a minimum of 20 hours per week, as indicated on the license application or change notification approved by LDH;

b. have services available and the required direct care staff on duty at all times during operational hours to meet the needs of the clients;

c. be able to accept referrals during operational hours; and

d. at any time that the BHS provider has an interruption in services or a change in the licensed location due to an emergency situation, the provider shall notify the HSS no later than the next business day.

D.2. - H.2.a. ...

b. the current *Louisiana Administrative Code* (LAC) provisions;

H.2.c. - I. ...

1. The secretary of the LDH may, within his/her sole discretion, grant waivers to building and construction guidelines which are not part of or otherwise required under the

provisions of the *LAC Title 51, Public Health Sanitary Code* or the OSFM.

I.2. ...

a. how client safety and quality of care are not compromised by the waiver;

I.2.b. - K.2. ...

L. An owner, officer, member, manager, administrator, clinical director, medical director, managing employee or clinical supervisor is prohibited from being a BHS provider, who has been convicted of or entered a guilty or nolo contendere plea to a felony related to:

1. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1687 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5607. Initial Licensure Application Process

A. Any entity, organization or person seeking to operate as a BHS provider shall submit a completed initial license application packet to the department for approval. Initial BHS provider licensure application packets are available from HSS.

B. - B.5. ...

6. a current (within 90 days prior to the submission of the application packet) statewide criminal background check, including sex offender registry status, on all owners and managing employees;

7. - 12. ...

C. Deadline for Submitting Initial Licensure Application for Unlicensed Agencies

1. Any unlicensed agency that is a provider of any psychosocial rehabilitation, crisis intervention and/or community psychiatric support and treatment services prior to the promulgation of this Rule and is required to be licensed as a BHS provider has 180 days from the promulgation of this Rule to submit an initial licensing application packet to HSS.

2. Any such unlicensed agency may continue to operate without a license during the licensing process until the department acts upon the initial license application and any and all appeal processes associated with the initial licensure is complete or the delay for taking an appeal has expired, whichever is later.

C.3. - G.2. ...

3. facility need approval, if applicable.

H. - I.2. ...

3. an agency that is a provider of psychosocial rehabilitation, community psychiatric support and treatment, and/or crisis intervention services.

J. Off-Sites. In order to operate an off-site, the provider shall submit:

1. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1688 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5611. Types of Licenses

A. - A.4.g.ii. ...

iii. facility need approval, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1690 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5613. Changes in Licensee Information or Personnel

A. - C. ...

1. Key administrative personnel include the following:

- a. ...
- b. medical director;
- c. clinical director; and
- d. clinical supervisor.

C.2. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1690 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5615. Renewal of License

A. ...

B. To renew a license, the BHS provider shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the current license. The license renewal application packet shall include:

- 1. ...
- 2. a current OSFM report (for on-site and residential services);
- 3. a current OPH inspection report (for on-site and residential services);

B.4. - G.3.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.
36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health
and Hospitals, Bureau of Health Services Financing, LR 41:1691
(September 2015), amended by the Department of Health, Bureau of
Health Services Financing, LR 43:

§5617. Deemed Status

A. A licensed BHS provider may request deemed status once
the provider becomes accredited by an LDH authorized
accreditation organization, or if the applicant has achieved
accreditation prior to initial licensure and becomes licensed.

B. The department may approve the deemed status request
and accept accreditation in lieu of periodic licensing surveys
when the provider provides documentation to the department that
shows:

1. the accreditation is current and was obtained
through the LDH authorized accreditation organization;

2. - 3. ...

C. If deemed status is approved, accreditation will be
accepted as evidence of satisfactory compliance with this
Chapter in lieu of conducting periodic relicensure surveys.

D. ...

E. The department may conduct unannounced complaint investigations on all behavioral health service providers, including those with deemed status.

1. - 7. Repealed.

F. The department may rescind deemed status and conduct a licensing survey for the following:

1. any valid complaint within the preceding 12 months;
2. an addition of services;
3. a change of ownership;
4. issuance of a provisional license in the preceding 12-month period;
5. deficiencies identified in the preceding 12-month period that placed clients at risk for harm;
6. treatment or service resulting in death or serious injury; or
7. a change in geographic location.

G. The provider shall notify HSS upon change in accreditation status within two business days.

H. The department shall rescind deemed status when the provider loses its accreditation.

I. A BHS provider approved for deemed status is subject to and shall comply with all provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S.
36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health
and Hospitals, Bureau of Health Services Financing, LR 41:1692
(September 2015), amended by the Department of Health, Bureau of
Health Services Financing, LR 43:

§5621. Complaint Investigations

A. - E. ...

1. A provider that is cited with deficiencies found
during a complaint investigation has the right to request an
informal reconsideration of the deficiencies. The provider's
written request for an informal reconsideration shall be
received by HSS within 10 calendar days of the provider's
receipt of the statement of deficiencies and shall identify each
disputed deficiency or deficiencies and the reason for the
dispute that demonstrates the findings were cited in error.

2. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.
36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health
and Hospitals, Bureau of Health Services Financing, LR 41:1692
(September 2015), amended by the Department of Health, Bureau of
Health Services Financing, LR 43:

§5623. Statement of Deficiencies

A. - B. ...

C. Informal Dispute Resolution

1. - 2. ...

3. The BHS provider's written request for IDR shall be received by HSS within 10 calendar days of the provider's receipt of the statement of deficiencies and shall identify each disputed deficiency or deficiencies and the reason for the dispute that demonstrates the findings were cited in error.

4. - 6.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1692 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5625. Cessation of Business

A. Except as provided in §5677 and §5678 of these licensing regulations, a license shall be immediately null and void if a BHS provider ceases to operate.

B. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1693

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

§5627. Sanctions

A. - B. ...

C. The department may deny an initial license, revoke a license or deny a license renewal for any of the following reasons, including, but not limited to:

1. - 10.e. ...

11. knowingly making a false statement or providing false, forged or altered information or documentation to LDH employees or to law enforcement agencies;

12. ...

13. the BHS provider, an owner, officer, member, manager, administrator, medical director, clinical director, managing employee or clinical supervisor that has pled guilty or nolo contendere to a felony, or is convicted of a felony, as documented by a certified copy of the record of the court, related to:

C.13.a. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1693

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

§5629. Notice and Appeal of License Denial, License Revocation and Denial of License Renewal

A. - B. ...

1. If the BHS provider chooses to request an administrative reconsideration, the request shall:

B.1.a. - D. ...

1. If the BHS provider chooses to request an administrative appeal, the request shall be received:

D.1.a. - G. ...

H. Administrative Reconsiderations of Deficiencies Cited Resulting in the Expiration of a Provisional Initial License or Provisional License

1. ...

2. The BHS provider's request for an administrative reconsideration shall:

2.a. - 4. ...

a. To request a stay, the BHS provider shall submit its written application to the DAL at the time the administrative appeal is filed.

H.4.b. - I.4.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1694 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter C. Organization and Administration

§5633. Governing Body

A. - B.4. ...

C. The responsibilities of a BHS provider's governing body, include, but are not limited to:

1. - 4. ...

5. at least once a year, formulating and reviewing, in consultation with the administrator, the clinical supervisor, clinical director and/or medical director, written policies concerning:

C.5.a. -E.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1696 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5635. Policies and Procedures

A. Each BHS provider shall develop, implement and comply with provider-specific written policies and procedures related

to compliance with this Chapter, including, but not limited to policies and procedures that address:

1. - 3. ...

4. uniform screening for client placement and quality assessment, diagnosis, evaluation, and referral to appropriate level of care;

5. - 6. ...

7. confidentiality and security of client records and files and any prohibitions related to social media;

A.8. - B.8. ...

9. procedures to ensure that the staff's credentials are verified, legal and from accredited institutions;

10. procedure to obtain statewide criminal background checks, ensuring no staff is providing unsupervised direct care prior to obtaining the results of the statewide criminal background check and addressing the results of the background check, if applicable; and

11. a written policy to address prohibited use of social media. The policy shall ensure that all staff, either contracted or directly employed, receive training relative to the restrictive use of social media and include, at a minimum, ensuring confidentiality of client information and preservation of client dignity and respect, including protection of client privacy and personal and property rights.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.
36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health
and Hospitals, Bureau of Health Services Financing, LR 41:1697
(September 2015), amended by the Department of Health, Bureau of
Health Services Financing, LR 43:

Subchapter D. Provider Operations

§5639. Quality Improvement Plan

A. - D.2. ...

E. The QI program outcomes shall be documented and
reported to the administrator, clinical director and/or medical
director for action, as necessary, for any identified systemic
problems.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.
36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health
and Hospitals, Bureau of Health Services Financing, LR 41:1698
(September 2015), amended by the Department of Health, Bureau of
Health Services Financing, LR 43:

Subchapter E. Personnel

§5643. Core Staffing Personnel Qualifications and Responsibilities

A. - B. ...

1. a medical director who:

a. is a physician, or an advanced practice registered nurse, or a medical psychologist, with a current, unrestricted license to practice in the state of Louisiana with two years of qualifying experience in treating psychiatric disorders;

EXCEPTION: Mental health rehabilitation providers exclusively providing the evidence-based practice multi-systemic therapy (MST), functional family therapy (FFT), or Homebuilders® are excluded from the requirement of having a medical director. Such shall have a clinical director in accordance with §5643.B.2.

b. ...

i. ensures that the necessary medical services are provided to meet the needs of the clients;

ii. provides oversight for provider policy/procedure, client plans of care (POCs) and staff regarding the medical needs of the clients according to the current standards of medical practice;

b.iii. - c.iii.

iv. provides consultative and on-call coverage to ensure the health and safety of clients;

v. collaborates with the client's primary care physician and psychiatrists as needed for continuity of the client's care; and

d. may also fulfill the role of the clinical director, if the individual is qualified to perform the duties of both roles;

2. a clinical director who, for those mental health rehabilitation providers which exclusively provide the evidenced-based practice multi-systemic therapy (MST), functional family therapy (FFT) or Homebuilders®:

a. is a licensed psychiatrist, psychologist, clinical social worker, professional counselor (LPC) or marriage and family therapist (LMFT) with a minimum of two years qualifying experience in treating psychiatric disorders and who maintains a current, unrestricted license to practice in the state of Louisiana;

b. has the following assigned responsibilities:

i. ensures that the necessary services are provided to meet the needs of the clients;

ii. provides oversight for provider policy/procedure, client plans of care (POCs) and staff regarding the clinical needs of the clients according the current standards of clinical practice;

iii. directs the specific course of clinical treatment for all clients;

iv. reviews reports of all accidents/incidents occurring on the premises and identifies hazards to the administrator;

v. participates in the development and implementation of policies and procedures for the delivery of services;

vi. periodically reviews delivery of services to ensure care meets the current standards of practice; and

vii. participates in the development of new programs and modifications; and

c. has the following responsibilities or designates the duties to a qualified practitioner:

i. provides consultative and on-call coverage to ensure the health and safety of clients; and

ii. collaborates with the client's primary care physician and psychiatrist as needed for continuity of the client's care:

3. an administrator who:

a. has either a bachelor's degree from an accredited college or university or one year of qualifying experience that demonstrates adequate knowledge, experience and expertise in business management;

b. is responsible for the on-site day to day operations of the BHS provider and supervision of the overall BHS provider's operation commensurate with the authority conferred by the governing body; and

c. shall not perform any programmatic duties and/or make clinical decisions unless licensed to do so;

d. - d.viii. Repealed.

4. a clinical supervisor who, with the exception of opioid treatment programs:

a. is an LMHP that maintains a current and unrestricted license with its respective professional board or licensing authority in the state of Louisiana;

b. shall be on duty and on call as needed;

i. - ii. Repealed.

c. has two years of qualifying clinical experience as an LMHP in the provision of services provided by the provider;

d. shall have the following responsibilities:

i. provide supervision utilizing evidenced-based techniques related to the practice of behavioral health counseling;

ii. serve as resource person for other professionals counseling persons with behavioral health disorders;

iii. attend and participate in care conferences, treatment planning activities, and discharge planning;

iv. provide oversight and supervision of such activities as recreation, art/music or vocational education;

v. function as client advocate in treatment decisions;

vi. ensure the provider adheres to rules and regulations regarding all behavioral health treatment, such as group size, caseload, and referrals;

vii. provide only those services that are within the person's scope of practice; and

viii. assist the clinical director and/or medical director and governing body with the development and implementation of policies and procedures;

5. nursing staff who, for those BHS providers whose services include medication management and/or addiction treatment services,:

a. provide the nursing care and services under the direction of a registered nurse necessary to meet the needs of the clients; and

b. have a valid current nursing license in the State of Louisiana.

i. A BHS provider with clients who are unable to self-administer medication shall have a sufficient number of nurses on staff to meet the medication needs of its clients.

ii. Nursing services may be provided directly by the BHS provider or may be provided or arranged via written contract, agreement, policy, or other document. The BHS provider shall maintain documentation of such arrangement.

C. - C.1. ...

a. The provider shall maintain a sufficient number of LMHPs, who are licensed to practice independently in the state of Louisiana to diagnose and treat mental illness and/or substance abuse, to meet the needs of the provider's clients.

1.b. - 3.d.vi. ...

vii. provide input regarding client progress to the interdisciplinary team;

C.d.viii. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1700 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter G. Services

§5655. Core Services

A. A BHS provider shall provide the following services to its clients when needed:

1. - 7. ...
8. rehabilitation services;
9. crisis mitigation; and
10. medication management.

EXCEPTION: Mental health rehabilitation providers exclusively providing the evidence-based practice multi-systemic therapy (MST), functional family therapy (FFT) or Homebuilders® are excluded from the requirement of §5655.A.10.

B. A BHS provider that is a mental health rehabilitation provider exclusively providing the evidence-based practice multi-systemic therapy (MST), functional family therapy (FFT) or Homebuilders® shall:

1. provide services in accordance with §5655.A.1-9;
- and

a. - b. Repealed.

2. develop policies and procedures to ensure:
 - a. screening of clients for medication management needs;
 - b. referral to appropriate community providers for medication management including assistance to the client/family to secure services; and

c. collaboration with the client's medication management provider as needed for coordination of the client's care.

3. Repealed.

C. Crisis Mitigation Services

1. The BHS provider's crisis mitigation plan shall:

a. identify steps to take when a client suffers from a medical, psychiatric, medication or relapse crisis; and

b. specify names and telephone numbers of staff or organizations to assist clients in crisis.

2. If the provider contracts with another entity to provide crisis mitigation services, the BHS provider shall have a written contract with the entity providing the crisis mitigation services.

3. The qualified individual, whether contracted or employed by the BHS provider, shall call the client within 30 minutes of receiving notice of the client's call.

D. Referral

1. The provider shall provide:

a. appropriate resource information regarding local agencies to client and family, if applicable, upon need or request; and

b. procedures to access vocational services, community services, transitional living services and transportation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1704 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter I. Physical Environment

§5669. Interior Space for Residential Facilities

A. - C.3. ...

D. Client Bedrooms. The provider shall ensure that each client bedroom in the facility:

1. contains at least 80 square feet for single bedrooms, exclusive of fixed cabinets, fixtures, furniture and equipment;

2. - 5. ...

a. Repealed.

EXCEPTION: Providers licensed as substance abuse/addiction treatment residential facilities at the time this Rule is promulgated that have more than four clients per bedroom, may maintain the existing bedroom space that allows more than four clients per bedroom provided that the bedroom space has been

previously approved by a LDH waiver. This exception applies only to the currently licensed physical location.

D.6. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1707 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter J. Safety and Emergency Preparedness

§5675. Emergency Preparedness

A. The BHS provider shall have written disaster and emergency preparedness plans which are based on a risk assessment using an all hazards approach for both internal and external occurrences, developed and approved by the governing body and updated annually:

1. - 2. ...

3. that are prepared in coordination with the provider's local and/or parish Office of Homeland Security and Emergency Preparedness (OHSEP) and include provisions for persons with disabilities.

B. The BHS provider shall develop and implement policies and procedures based on the emergency plan, risk assessment and communication plan which shall be reviewed and updated at least

annually. Such policies shall include a system to track on duty staff and sheltered clients, if any, during the disaster or emergency.

1. - 4. Repealed.

C. The BHS provider shall develop and maintain a disaster and emergency preparedness plan that complies with both federal and state laws. Client care shall be well-coordinated within the BHS provider, across health care providers and with state and local public health departments and emergency systems.

1. - 6. Repealed.

D. The BHS provider shall develop and maintain training and testing programs, including initial training in policies and procedures and demonstrate knowledge of disaster and emergency procedures. Such training shall be provided at least annually.

1. - 3. Repealed.

E. Additional Requirements. The residential facility or outpatient clinic shall:

1. post floor plans with diagrams giving clear directions on how to exit the building safely and in a timely manner at all times;

2. post emergency numbers by all telephones;

3. have a separate floor plan or diagram with designated safe zones or sheltering areas for non-fire emergencies;

4. train its employees in emergency or disaster preparedness. Training shall include orientation, ongoing training and participation in planned drills for each employee and on each shift; and

5. ensure that emergency equipment and supplies are:
a. immediately available for use during emergency situations;

b. appropriate for the BHS provider's client population;

c. maintained by appropriate personnel; and

d. are specified by the medical staff and approved by the governing body for treatment of all age groups serviced by the BHS provider.

6. - 7.e. Repealed.

F. The residential BHS provider's disaster and emergency preparedness plans shall include, at a minimum:

1. in the event of a disaster or an emergency, an assessment of all clients to determine the clients:

a. who continue to require services and should remain in the care of the provider; or

b. who may be discharged to receive services from another provider;

2. the determination as to when the provider will shelter in place and when the provider will evacuate for a

disaster or emergency and the conditions that guide these determinations in accordance with local or parish OHSEP;

3. provisions for when the provider shelters-in-place that include:

a. the decision to take this action is made after reviewing all available and required information on the emergency/disaster, the provider, the provider's surroundings, and consultation with the local or parish OHSEP;

b. provisions for seven days of necessary supplies to be provided by the provider prior to the emergency, including drinking water or fluids and non-perishable food; and

c. the delivery of essential services to each client;

4. provisions for when the provider evacuates with clients:

a. the delivery of essential provisions and services to each client, whether the client is in a shelter or other location;

b. the provider's method of notifying the client's family or caregiver, including:

i. the date and approximate time that the provider or client is evacuating;

ii. the place or location to which the client(s) is evacuating which includes the name, address and telephone number; and

iii. a telephone number that the family or responsible representative may call for information regarding the client's evacuation;

c. provisions for ensuring that supplies, medications, clothing and a copy of the treatment plan are sent with the client, if the client is evacuated;

d. the procedure or methods that will be used to ensure that identification accompanies the client. The identification shall include the following information:

i. current and active diagnosis;

ii. all medication, including dosage and times administered;

iii. allergies;

iv. special dietary needs or restrictions;

and

v. legal representative, if applicable, including contact information;

e. transportation or arrangements for transportation for an evacuation that is adequate for the current census;

5. provisions for staff to maintain continuity of care during an emergency; and

6. staff distribution and assignment of responsibilities and functions during an emergency.

G. The outpatient clinic's disaster and emergency preparedness plan shall include, at a minimum:

1. in the event of an emergency or disaster, an assessment of all clients to determine the clients:

a. who continue to require services; or

b. who may be discharged to receive services from another provider;

2. a plan for each client to continue to receive needed services during a disaster or emergency either by the provider or referral to another program; and

3. measures to be taken to locate clients after an emergency or disaster and determine the need for continued services and/or referral to other programs.

H. The provider shall:

1. follow and execute its disaster and emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency;

2. if the state, parish or local OHSEP orders a mandatory evacuation of the parish or the area in which the agency is serving, ensure that all clients are evacuated

according to the provider's disaster and emergency preparedness plan;

3. review and update its disaster and emergency preparedness plan at least once a year;

4. cooperate with the department and with the local or parish OHSEP in the event of an emergency or disaster and provide information as requested;

5. monitor weather warnings and watches as well as evacuation orders from local and state emergency preparedness officials;

6. upon request by the department, submit a copy of its emergency preparedness plan for review; and

7. upon request by the department, submit a written summary attesting how the emergency plan was followed and executed. The summary shall contain, at a minimum:

a. pertinent plan provisions and how the plan was followed and executed;

b. plan provisions that were not followed;

c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;

d. contingency arrangements made for those plan provisions not followed; and

e. a list of all injuries and deaths of clients that occurred during execution of the plan, evacuation or

temporary relocation including the date, time, causes and circumstances of the injuries and deaths.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1710 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**§5678. Inactivation of License due to a Non-Declared
Emergency or Disaster**

A. A licensed BHS provider in an area or areas which have been affected by a non-declared emergency or disaster may seek to inactivate its license, provided that the following conditions are met:

1. the licensed BHS provider shall submit written notification to the Health Standards Section within 30 days of the date of the non-declared emergency or disaster stating that:

a. the BHS provider has experienced an interruption in the provisions of services as a result of events that are due to a non-declared emergency or disaster;

b. the licensed BHS provider intends to resume operation as a BHS provider in the same service area;

c. the licensed BHS provider attests that the emergency or disaster is the sole causal factor in the interruption of the provision of services; and

d. the licensed BHS provider's initial request to inactivate does not exceed one year for the completion of repairs, renovations, rebuilding or replacement of the facility.

NOTE: Pursuant to these provisions, an extension of the 30-day deadline for initiation of request may be granted at the discretion of the department.

2. the licensed BHS provider continues to pay all fees and costs due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties and/or civil fines; and

3. the licensed BHS provider continues to submit required documentation and information to the department, including but not limited to cost reports.

B. Upon receiving a completed written request to temporarily inactivate a BHS provider license, the department shall issue a notice of inactivation of license to the BHS provider.

C. Upon the provider's receipt of the department's approval of request to inactivate the provider's license, the provider shall have 90 days to submit plans for the repairs, renovations, rebuilding or replacement of the facility, if applicable, to the OSFM and the OPH as required.

D. The licensed BHS provider shall resume operating as a BHS provider in the same service area within one year of the approval of renovation/construction plans by the OSFM and the OPH as required.

EXCEPTION: If the provider requires an extension of this timeframe due to circumstances beyond the provider's control, the department will consider an extended time period to complete construction or repairs. Such written request for extension shall show the provider's active efforts to complete construction or repairs and the reasons for request for extension of the provider's inactive license. Any approval for extension is at the sole discretion of the department.

E. Upon completion of repairs, renovations, rebuilding or replacement of the facility, a BHS provider 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. the BHS provider shall submit a written license reinstatement request to the licensing agency of the department;

2. the license reinstatement request shall inform the department of the anticipated date of opening and shall request scheduling of a licensing or physical environment survey, where applicable; and

3. the license reinstatement request shall include a completed licensing application with appropriate licensing fees.

F. Upon receiving a completed written request to reinstate a BHS provider license, the department may conduct a licensing or physical environment survey. The department may issue a notice of reinstatement if the provider has met the requirements for licensure including the requirements of this Subsection.

G. No change of ownership in the BHS provider shall occur until such BHS provider has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as a BHS provider.

H. The provisions of this Subsection shall not apply to a BHS provider which has voluntarily surrendered its license and ceased operation.

I. Failure to comply with any of the provisions of this Subsection shall be deemed a voluntary surrender of the BHS provider license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

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

Subchapter K. Additional Requirements for Children/Adolescent Programs

NOTE: In addition to the requirements applicable to all Behavioral Health Service providers, programs that treat children and/or adolescents shall meet the applicable requirements below.

Subchapter L. Additional Requirements for Mental Health Programs

NOTE: In addition to the requirements applicable to all BHS providers, a provider that provides mental health services shall meet the requirements of Subchapter L.

§5683. Staffing Requirements

A. Medical Director. The provider with a mental health program shall ensure that its medical director, when the provider is required to have a medical director, holds a current, unrestricted license to practice in the state of Louisiana in accordance with the practitioner's state licensing board, and meets the requirements of §5643.B.1.a Exception.

1. - 2. Repealed.

NOTE: The medical director may fulfill the role of the clinical director if the individual is qualified to perform the duties of the clinical director.

B. Clinical Director. The provider with a mental health program shall ensure that its clinical director holds a current, unrestricted license to practice in the state of Louisiana in accordance with the practitioner's state licensing board and meets the requirements of §5643.B.2.a.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1712

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

Subchapter M. Additional Requirements for Substance Abuse/Addiction Treatment Programs

NOTE: In addition to the requirements applicable to all BHS providers, a provider that provides substance abuse/addiction treatment services shall meet the requirements of Subchapter M.

§5693. General Requirements

A. - B.1.b. ...

c. The APRN shall have a collaborative practice agreement with a physician in accordance with the Louisiana State Board of Nursing.

B.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1714 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5698. Partial Hospitalization Services (substance abuse only) (ASAM Level II.5)

A. The provider shall:

1. only admit clients clinically appropriate for ASAM level II.5 into this program;

a. services may be offered during the day or evening hours, before or after work or on weekends, while also allowing the patient to apply their new skills and strategies in the community;

2. maintain a minimum of 20 contact hours per week for adults, at a minimum of three days per week;

3. maintain a minimum of 20 hours per week for children/adolescents, daily or as specified in the patient's treatment plan and may occur during school hours;

a. adolescents shall have access to educational services; or

b. the provider shall be able to coordinate with the school system to ensure that the adolescent's educational needs are met; and

4. review and update the treatment plan in collaboration with the client as needed or at a minimum of every 30 days.

B. Staffing. The provider shall ensure that:

1. a licensed physician is on site as needed for the management of psychiatric and medical needs and on call 24 hours per day, seven days per week;

2. there is a clinical supervisor on-site 10 hours a week and on call 24 hours per day, seven days per week;

3. there is at least one LMHP or UP on site when clinical services are being provided;

4. each LMHP/UP caseload does not exceed 1:25 active clients; and

5. there are nursing services available as needed to meet the nursing needs of the clients.

a. Nursing services may be provided directly by the BHS provider or may be provided or arranged via written contract, agreement, policy, or other document. The BHS provider shall maintain documentation of such arrangement.

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

Subchapter N. Additional Requirement for Substance Abuse/Addictive Residential Treatment Programs

NOTE: In addition to the requirements applicable to all BHS providers, residential programs that treat substance abuse/addiction shall meet the applicable requirements below.

§5715. Dietary Services

A. - A.6. ...

7. all equipment and utensils used in the preparation and serving of food are properly cleaned, sanitized and stored in accordance with the *LAC Title 51, Public Health Sanitary Code*; and

A.8. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.
36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health
and Hospitals, Bureau of Health Services Financing, LR 41:1719
(September 2015), amended by the Department of Health, Bureau of
Health Services Financing, LR 43:

**Subchapter O. Additional Requirements for Opioid Treatment
Programs**

NOTE: In addition to the requirements applicable to all BHS
providers, opioid treatment programs shall also meet the
requirements of Subchapter O.

§5723. General Provisions

A. - A.3.c. ...

d. adhere to all protocols established by LDH
on the death of a client; and

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.
36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health
and Hospitals, Bureau of Health Services Financing, LR 41:1720
(September 2015), amended by the Department of Health, Bureau of
Health Services Financing, LR 43:

§5729. Medications

A. - B.4. ...

5. Exceptions to the Standard Schedule. The provider shall request and obtain approval for an exception to the standard schedule from the state opioid authority. Any exception shall be for an emergency or severe travel hardship.

C. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1722 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by ensuring the safe operation of facilities that provide behavioral health services.

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

In compliance with 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 an adverse impact on small businesses, as described in R.S. 49:965.2 et seq, if the requirements of these licensing changes increase the financial burden on providers. With the resources available to the department, a regulatory flexibility analysis has been prepared in order to consider methods to minimize the potential adverse impact on small businesses. The department has determined that there is no less intrusive or less costly alternative methods of achieving the intended purpose since the changes result from legislative mandates.

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 may have an impact on the staffing level requirements or qualifications required to provide the same level of service and may increase the direct or indirect cost to the provider to provide the same level of service due to the staffing requirements. These provisions may have a negative impact on the provider's ability to provide the same level of service as described in HCR 170 due to the

licensing requirements for partial hospitalizations for substance abuse treatment.

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, May 25, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary



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

PUBLIC HEARING CERTIFICATION
May 25, 2017
9:30 a.m.

RE: Behavioral Health Service Providers
Licensing Standards
Docket # 05252017-01
Department of Health
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on May 25, 2017 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

Medicaid Policy and Compliance
Section

05/25/17

Date

LDH/BHSF PUBLIC HEARING

Topic - Behavioral Health Service Providers - Licensing Standards

Date - May 25, 2017

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Carol Rumbold	608 N 4th St BR LA 70802	225 342 6943	LDH
2. Courtney ONeal	109 Executive Dr. Lake Charles, LA 70611	(337) 855-9123	Talbert's medical Billing
3. Elizabeth Thompson	109 Executive Dr Lake Charles, LA 70611	337 855-9023	Talbert's Medical Billing
4. Shantel Ceaser	109 Executive Dr. Lake Charles, LA 70611	(337) 855-9023	Talbert's Medical Billing
5. Darlene Deasur	109 Executive Dr LA, LA 70611	337.855-9023	Talbert's Medical Billing
6. Maggie Williams	1306 Ammons Dr. BR, LA 70810	(225) 281-3076	The Grave

LDH/BHSF PUBLIC HEARING

Topic - Behavioral Health Service Providers - Licensing Standards

Date - May 25, 2017

Name	Address	Telephone Number	AGENCY or GROUP you represent
7. Carol Rumba	628 N 4th BRLA 70802	225 342-6543	LDH
8. William Keeney	35059 Band Rd. Deerham Springs La. 70706	225-243-5047	Narconon Louisiana
9. Darren Pugin	5535 Reitz Avenue BRLA 70809	225-295-2430	BCBS LA
10. <i>[Signature]</i>	"	"	ACCESSA
11. Chasr Glenn	1149 Linwood Loop Opaloussas LA 70570	337 323 9205	New Beginnings ARC
12. Brechel Blanchard	628 N. 4th St. BRLA, LA. 70802	(225) 342. 2471	LDH-NISS

LDH/BHSF PUBLIC HEARING

Topic - Behavioral Health Service Providers - Licensing Standards

Date - May 25, 2017

Name	Address	Telephone Number	AGENCY or GROUP you represent
13. Desiree Casfeldt	LDH/HSS	343-0158	LDH/HSS
14. Wes Fox	THE GEORGE	300-4850	THE GEORGE
15. S. G. McLeod	15060a Drive, BRLA 70415 STC Addiction Wellness	387-1611	STC Addiction Wellness Ctr
16. Brandi Klingman		387-1611	STC Addiction Wellness
17. Felicia Klemperer		387-1611	STC Addiction Wellness
18. Cordelia Clay	LDH/OB#	342-2627	OBH



State of Louisiana
Louisiana Department of Health
Office of the Secretary

June 6, 2017

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Taylor F. Barras, Speaker of the House
The Honorable Fred H. Mills, Jr., Chairman, Senate Committee on Health and Welfare
The Honorable Frank A. Hoffmann, Chairman, House Committee on Health and Welfare
The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FROM: Rebekah E. Gee MD, MPH
Secretary

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Inpatient Hospital Services – Graduate Medical Education – Supplemental Payments Pool Elimination.

The Department published a Notice of Intent on this proposed Rule in the April 20, 2017 issue of the *Louisiana Register* (Volume 43, Number 4). A public hearing was held on May 25, 2017 at which only Louisiana Department of Health staff were present. No oral testimony was given or written comments received regarding this proposed Rule.

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

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

REG/WJR/CEC

Attachments (3)

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Inpatient Hospital Services Graduate Medical Education Supplemental Payments Pool Elimination (LAC 50:V.1331)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:V.1331 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for inpatient hospital services to adopt provisions in order to continue medical education payments to state hospitals, children's specialty hospitals and acute care hospitals classified as teaching hospitals when the hospitals are reimbursed by prepaid risk-bearing MCOs for inpatient hospital services (*Louisiana Register*, Volume 38, Number 11).

As a result of a budgetary shortfall in SFY 2017, the Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing inpatient hospital services to eliminate the total

supplemental payments pool for graduate medical education payments to qualifying acute care hospitals (*Louisiana Register*, Volume 43, Number 3). The department subsequently promulgated an Emergency Rule which amended the provisions of the March 1, 2017 Emergency Rule in order to clarify these provisions, and to correct a technical error to assure that the provisions were promulgated in a clear and concise manner (*Louisiana Register*, Volume 43, Number 3). This proposed Rule is being promulgated to continue the provisions of the March 1, 2017 and March 2, 2017 Emergency Rules.

Title 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 1. Inpatient Hospital Services

Chapter 13. Teaching Hospitals

Subchapter B. Reimbursement Methodology

§1331. Acute Care Hospitals

A. Effective for dates of service on or after February 1, 2012, medical education payments for inpatient services which are reimbursed by a prepaid risk-bearing managed care organization (MCO) shall be paid monthly by Medicaid as interim lump sum payments.

1. Hospitals with qualifying medical education programs shall submit a listing of inpatient claims paid each month by each MCO.

a. Qualifying medical education programs are defined as graduate medical education, paramedical education, and nursing schools.

2. Qualifying hospitals must have a direct medical education add-on component included in their prospective Medicaid per diem rates as of January 31, 2012 which was carved-out of the per diem rate reported to the MCOs.

3. Monthly payments shall be calculated by multiplying the number of qualifying inpatient days submitted by the medical education costs component included in each hospital's fee-for-service prospective per diem rate. Monthly payment amounts shall be verified by the department semi-annually using reports of MCO covered days generated from encounter data. Payment adjustments or recoupments shall be made as necessary based on the MCO encounter data reported to the department.

B. - F.3. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:877 (May 2008), amended LR 38:2773 (November 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

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

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

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

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may increase direct or indirect cost to the provider to provide the same level of service due to the elimination of supplemental Medicaid payments

for the service. The Rule may also have a negative impact on the provider's ability to provide the same level of service as described in HCR 170 if the elimination of these payments adversely impacts the provider's financial standing.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, May 25, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary



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

PUBLIC HEARING CERTIFICATION
May 25, 2017
9:30 a.m.

RE: Inpatient Hospital Services
Graduate Medical Education
Supplemental Payments
Pool Elimination
Docket # 05252017-02
Department of Health
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on May 25, 2017 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in blue ink, likely of the Secretary, Rebekah E. Gee.

Medicaid Policy and Compliance
Section

05/25/17

Date

LDH/BHSF PUBLIC HEARING

Topic – Inpatient Hospital Services – Graduate Medical Education
Supplemental Payments Pool Elimination

Date – May 25, 2017

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Carol Rumbold	628 N 4th St BREA 92602	225 342 6943	LDH
2.			
3.			
4.			
5.			
6.			



State of Louisiana
Louisiana Department of Health
Office of the Secretary

June 6, 2017

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Taylor F. Barras, Speaker of the House
The Honorable Fred H. Mills, Jr., Chairman, Senate Committee on Health and Welfare
The Honorable Frank A. Hoffmann, Chairman, House Committee on Health and Welfare
The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FROM: Rebekah E. Gee MD, MPH
Secretary

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Inpatient Hospital Services - High Medicaid Hospitals - Supplemental Payments Pool Reduction.

The Department published a Notice of Intent on this proposed Rule in the April 20, 2017 issue of the *Louisiana Register* (Volume 43, Number 4). A public hearing was held on May 25, 2017 at which only Louisiana Department of Health staff were present. No oral testimony was given or written comments received regarding this proposed Rule.

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

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

REG/WJR/RKA

Attachments (3)

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Inpatient Hospital Services
High Medicaid Hospitals
Supplemental Payments Pool Reduction
(LAC 50:V.953)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:V.953 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.

As a result of a budgetary shortfall in state fiscal year (SFY) 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the total supplemental payments pool for non-rural, non-state hospitals classified as high Medicaid hospitals, and changed the frequency of the payments (*Louisiana Register*, Volume 41, Number 1).

As a result of a budgetary shortfall in SFY 2017, the Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing inpatient hospital services to reduce the total supplemental payments pool for non-rural, non-state hospitals

classified as high Medicaid hospitals (*Louisiana Register*, Volume 43, Number 3). This proposed Rule is being promulgated in order to continue the provisions of the March 1, 2017 Emergency Rule.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 1. Inpatient Hospital Services

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§953. Acute Care Hospitals

A. - S. ...

T. Effective for dates of service on or after March 1, 2017, supplemental payments to non-rural, non-state acute care hospitals that qualify as a high Medicaid hospital shall be annual. The amount appropriated for annual supplemental payments shall be reduced to \$1,000. Each qualifying hospital's annual supplemental payment shall be calculated based on the pro rata share of the reduced appropriation.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895, 1896 (September 2009),

repromulgated LR 35:2182 (October 2009), amended LR 36:1552 (July 2010), LR 36:2561 (November 2010), LR 39:3095 (November 2013), LR 39:3297 (December 2013), LR 40:312 (February 2014), repromulgated LR 40:1939, 1940 (October 2014), LR 41:133 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

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

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

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

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the

provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may increase direct or indirect cost to the provider to provide the same level of service due to the elimination of supplemental Medicaid payments for the service. The Rule may also have a negative impact on the provider's ability to provide the same level of service as described in HCR 170 if the reduction in payments adversely impacts the provider's financial standing.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, May 25, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary



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

PUBLIC HEARING CERTIFICATION
May 25, 2017
9:30 a.m.

RE: Inpatient Hospital Services
High Medicaid Hospitals
Supplemental Payments
Pool Reduction
Docket # 05252017-03
Department of Health
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on May 25, 2017 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in blue ink, likely of the Secretary, Rebekah E. Gee.

Medicaid Policy and Compliance
Section

05/25/17

Date

LDH/BHSF PUBLIC HEARING

Topic - Inpatient Hospital Services - High Medicaid Hospitals Supplemental Payments Pool Reduction

Date - May 25, 2017

PERSONS IN ATTENDANCE

Nome	Address	Telephone Number	AGENCY or GROUP you represent
1. Carol Runfola	628 N 4th St Bella Vista	25342-6943	LDH
2.			
3.			
4.			
5.			
6.			




State of Louisiana
Louisiana Department of Health
Office of the Secretary

June 6, 2017

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Taylor F. Barras, Speaker of the House
The Honorable Fred H. Mills, Jr., Chairman, Senate Committee on Health and Welfare
The Honorable Frank A. Hoffmann, Chairman, House Committee on Health and Welfare
The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FROM: Rebekah E. Gee MD, MPH
Secretary 

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Medicaid Eligibility - Former Foster Care Adolescents.

The Department published a Notice of Intent on this proposed Rule in the April 20, 2017 issue of the *Louisiana Register* (Volume 43, Number 4). A public hearing was held on May 25, 2017 at which only Louisiana Department of Health staff were present. No oral testimony was given or written comments received regarding this proposed Rule.

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

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

REG/WJR/YE

Attachments (3)

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Medicaid Eligibility
Former Foster Care Adolescents
(LAC 50:III.2308)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:III.2308 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.

In compliance with the requirements of the Affordable Care Act of 2010 (ACA), the Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions to establish a new Medicaid eligibility group to provide Medicaid coverage to former foster care adolescents from age 18 to 26 who are transitioning out of foster care (*Louisiana Register*, Volume 40, Number 11). The ACA also provided an option approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) to allow states to provide coverage to youth who were formerly Medicaid-enrolled children in foster care under the responsibility of another state. The department now proposes to amend the provisions governing former foster care adolescents in order to terminate the CMS-approved

state option to provide Medicaid coverage to youth formerly enrolled in foster care under the responsibility of another state.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 3. Eligibility Groups and Factors

Chapter 23. Eligibility Groups and Medicaid Programs

§2308. Former Foster Care Adolescents

A. Pursuant to the Patient Protection and Affordable Care Act of 2010 (collectively referred to as the Affordable Care Act), the Department of Health implemented a Medicaid eligibility group, effective December 31, 2013, to provide health care coverage to youth who are transitioning out of foster care to self-sufficiency upon reaching age 18 or at a higher age selected by the department. This eligibility group is called former foster care adolescents.

B. Eligibility Requirements. Youth who age out of foster care in Louisiana and meet all of the following requirements may receive Medicaid health care coverage under this eligibility group.

1. The youth must be from age 18 up to age 26.
2. The youth must have been in foster care and in Louisiana state custody, and receiving Medicaid upon turning age

18 or upon aging out of foster care at a higher age selected by the department.

B.3. - E.4. ...

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 40:2260 (November 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

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

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have a negative impact on family functioning, stability or autonomy as described in R.S. 49:972 by increasing the financial burden for health care costs for families of former foster care adolescents who no longer meet Medicaid eligibility requirements.

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 may have a negative impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by increasing the financial burden for former foster care adolescents who no longer meet Medicaid eligibility requirements.

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 no direct or indirect cost to the provider to provide the same level of service. These provisions will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, May 25, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or

in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary



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

PUBLIC HEARING CERTIFICATION

May 25, 2017

9:30 a.m.

RE: Medicaid Eligibility
Former Foster Care Adolescents
Docket # 05252017-04
Department of Health
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on May 25, 2017 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in blue ink, appearing to be "C. E. B.", written over a horizontal line.

Medicaid Policy and Compliance
Section

05/25/17

Date

LDH/BHSF PUBLIC HEARING

Topic – Medicaid Eligibility – Former Foster Care Adolescents

Date – May 25, 2017

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Carol Kumbah	628 N 4th St Boca Raton 33432	225 342 6943	LDH
2. Danell Curtis	6th Floor		LDH
3.			
4.			
5.			
6.			



State of Louisiana
Louisiana Department of Health
Office of the Secretary

June 6, 2017

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Taylor F. Barras, Speaker of the House
The Honorable Fred H. Mills, Jr., Chairman, Senate Committee on Health and Welfare
The Honorable Frank A. Hoffmann, Chairman, House Committee on Health and Welfare
The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FROM: Rebekah E. Gee MD, MPH
Secretary

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Professional Services Program – Reimbursement Methodology – Supplemental Payments.

The Department published a Notice of Intent on this proposed Rule in the April 20, 2017 issue of the *Louisiana Register* (Volume 43, Number 4). A public hearing was held on May 25, 2017 at which only Louisiana Department of Health staff were present. No oral testimony was given or written comments received regarding this proposed Rule.

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

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

REG/WJR/CEC

Attachments (3)

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Professional Services Program
Reimbursement Methodology
Supplemental Payments
(LAC 50:IX.15151 and 15153)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:IX.15151 and 15153 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for professional services to provide a supplemental payment to physicians and other professional practitioners employed by, or under contract with, non-state owned or operated governmental entities (*Louisiana Register*, Volume 40, Number 3).

The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the Professional Services Program to revise the reimbursement methodology for supplemental payments to physicians and other professional service practitioners in order to clarify the qualifying criteria for these payments and to reformat the

provisions to ensure they are promulgated in a clear and concise manner in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 43, Number 2). This proposed Rule is being promulgated to continue the provisions of the February 20, 2017 Emergency Rule.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE Part IX. Professional Services Program Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter F. Supplemental Payments

§15151. State Owned or Operated Professional Services Practices

A. Qualifying Criteria. Effective for dates of service on or after February 20, 2017, in order to qualify to receive supplemental payments, physicians and other eligible professional service practitioners must be:

1. ...
2. enrolled as a Louisiana Medicaid provider; and
3. employed by, or under contract to provide services in affiliation with, a state-owned or operated entity, such as a state-operated hospital or other state entity, including a state academic health system, which:

a. has been designated by the bureau as an essential provider. Essential providers include:

- i. LSU School of Medicine - New Orleans;
- ii. LSU School of Medicine - Shreveport;

iii. LSU School of Dentistry; and

iv. LSU - state operated hospitals (Lallie Kemp Regional Medical Center and Villa Feliciana Geriatric Hospital); and

b. has furnished satisfactory data to LDH regarding the commercial insurance payments made to its employed physicians and other professional service practitioners.

B. Qualifying Provider Types. For purposes of qualifying for supplemental payments under this Section, services provided by the following professional practitioners will be included:

1. physicians;
2. physician assistants;
3. certified registered nurse practitioners;
4. certified nurse anesthetists;
5. nurse midwives;
6. psychiatrists;
7. psychologists;
8. speech-language pathologists;
9. physical therapists;
10. occupational therapists;
11. podiatrists;
12. optometrists;
13. social workers;
14. dentists;

15. audiologists;
16. chemical dependency counselors;
17. mental health professionals;
18. opticians;
19. nutritionists;
20. paramedics; and
21. doctors of chiropractic.

C. Payment Methodology

1. The supplemental payment to each qualifying physician or other eligible professional services practitioner in the practice plan will equal the difference between the Medicaid payments otherwise made to these qualifying providers for professional services and the average amount that would have been paid at the equivalent community rate. The *community rate* is defined as the average amount that would have been paid by commercial insurers for the same services.

2. The supplemental payments shall be calculated by applying a conversion factor to actual charges for claims paid during a quarter for Medicaid services provided by the state-owned or operated practice plan providers. The commercial payments and respective charges shall be obtained for the state fiscal year preceding the reimbursement year. If this data is not provided satisfactorily to LDH, the default conversion factor shall equal

"1". This conversion factor shall be established annually for qualifying physicians/practitioners by:

a. determining the amount that private commercial insurance companies paid for commercial claims submitted by the state-owned or operated practice plan or entity; and

b. dividing that amount by the respective charges for these payers.

3. The actual charges for paid Medicaid services shall be multiplied by the conversion factor to determine the maximum allowable Medicaid reimbursement. For eligible non-physician practitioners, the maximum allowable Medicaid reimbursement shall be limited to 80 percent of this amount.

4. The actual base Medicaid payments to the qualifying physicians/practitioners employed by a state-owned or operated entity shall then be subtracted from the maximum Medicaid reimbursable amount to determine the supplemental payment amount.

D. Supplemental payments for services provided by the qualifying state-owned or operated physician practice plan will be implemented through a quarterly supplemental payment to providers, based on specific Medicaid paid claim data.

E. - F. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:544 (March 2014), promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§15153. Non-State Owned or Operated Professional Services Practices

A. Qualifying Criteria. Effective for dates of service on or after February 20, 2017, in order to qualify to receive supplemental payments, physicians and other eligible professional service practitioners must be:

1. licensed by the state of Louisiana;
2. enrolled as a Louisiana Medicaid provider; and
3. employed by, or under contract to provide services at a non-state owned or operated governmental entity and identified by the non-state owned or operated governmental entity as a physician that is employed by, or under contract to provide services at said entity.

B. Qualifying Provider Types. For purposes of qualifying for supplemental payments under this Section, services provided by the following professional practitioners will be included:

1. physicians;
2. physician assistants;
3. certified registered nurse practitioners;
4. certified nurse anesthetists;

5. nurse midwives;
6. psychiatrists;
7. psychologists;
8. speech-language pathologists;
9. physical therapists;
10. occupational therapists;
11. podiatrists;
12. optometrists;
13. social workers;
14. dentists;
15. audiologists;
16. chemical dependency counselors;
17. mental health professionals;
18. opticians;
19. nutritionists;
20. paramedics; and
21. doctors of chiropractic.

C. The supplemental payment will be determined in a manner to bring payments for these services up to the community rate level.

1. For purposes of this Section, the community rate shall be defined as the rates paid by commercial payers for the same service.

D. The non-state governmental entity shall periodically furnish satisfactory data for calculating the community rate as requested by LDH.

E. Payment Methodology

1. The supplemental payment amount shall be determined by establishing a Medicare to community rate conversion factor for the physician or physician practice plan.

2. At the end of each quarter, for each Medicaid claim paid during the quarter, a Medicare payment amount will be calculated and the Medicare to community rate conversion factor will be applied to the result.

3. Medicaid payments made for the claims paid during the quarter will then be subtracted from this amount to establish the supplemental payment amount for that quarter.

F. The supplemental payments shall be made on a quarterly basis and the Medicare to community rate conversion factor shall be recalculated periodically as determined by the department.

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 40:544 (March 2014), promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Implementation of the provisions of this Rule may be

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

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

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

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

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, May 25, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary



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

PUBLIC HEARING CERTIFICATION

May 25, 2017

9:30 a.m.

RE: Professional Services Program
Reimbursement Methodology
Supplemental Payments
Docket # 05252017-05
Department of Health
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on May 25, 2017 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

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

Medicaid Policy and Compliance
Section

05/25/17

Date

LDH/BHSF PUBLIC HEARING

Topic – Professional Services Program Reimbursement Methodology –
Supplemental Payments

Date – May 25, 2017

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Carol Runnels	6228 N 4th St Burleson TX 76022	205 342-6943	LDH
2.			
3.			
4.			
5.			
6.			