



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

July 5, 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

**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 Managed Care for Physical and Behavioral Health – Louisiana Health Insurance Premium Payment Program – Behavioral Health Recipient Participation.

The Department published a Notice of Intent on this proposed Rule in the May 20, 2017 issue of the *Louisiana Register* (Volume 43, Number 5). A public hearing was held on June 29, 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 August 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

#### Managed Care for Physical and Behavioral Health Louisiana Health Insurance Premium Payment Program Behavioral Health Recipient Participation (LAC 50:I.3103)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:I.3103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing will provide coverage to eligible Medicaid recipients through the Louisiana Health Insurance Premium Payment Program (LaHIPP) by establishing or maintaining a third party resource as the primary payer of the recipient's medical expenses in order to reduce costs to the Medicaid Program (*Louisiana Register*, Volume 43, Number 4). The department promulgated a Rule to exclude LaHIPP participants from participation in managed care for physical and behavioral health services (*Louisiana Register*, Volume 43, Number 4).

The department has now determined that it is necessary to amend the provisions governing managed care for physical and behavioral health in order to allow Medicaid recipients enrolled

in the LaHIPP Program to access behavioral health services only through the managed care organizations that participate in the Healthy Louisiana (formerly Bayou Health) Program.

**Title 50**  
**PUBLIC HEALTH-MEDICAL ASSISTANCE**  
**Part I. Administration**

**Subpart 3. Managed Care for Physical and Behavioral Health**

**Chapter 31. General Provisions**

**§3103. Recipient Participation**

A. - G.

H. Participation Exclusion

1. The following Medicaid and/or CHIP recipients are excluded from participation in an MCO and cannot voluntarily enroll in an MCO. Individuals who:

a. - e. ...

f. are enrolled in the Louisiana Health

Insurance Premium Payment (LaHIPP) Program.

EXCEPTION: This exclusion does not apply to LaHIPP enrollees eligible to receive behavioral health services only through the managed care organizations.

I. ...

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 37:1573 (June 2011), amended LR 40:310 (February 2014), LR 40:1096 (June

2014), LR 40:2258 (November 2014), LR 41:929 (May 2015), LR 41:2363 (November 2015), LR 42:754 (May 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1522 (September 2016), LR 43:663 (April 2017), 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 a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 as it will ensure continued access to behavioral health services through the MCOs for recipients enrolled in LaHIPP.

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it reduces the financial burden for families with Medicaid recipients enrolled in LaHIPP who are in need of behavioral health services through MCOs.

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, June 29, 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**  
**June 29, 2017**  
**9:30 a.m.**

RE: Managed Care for Physical and Behavioral Health  
Louisiana Health Insurance Premium Payment Program  
Behavioral Health Recipient Participation  
Docket # 06292017-01  
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 June 29, 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

06/29/17

Date

# LDH/BHSF PUBLIC HEARING

**Topic** – Managed Care for Physical and Behavioral Health – Louisiana Health Insurance Premium Payment Program – Behavioral Health Recipient Participation

**Date** – June 29, 2017

## PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Carol Rumbin	628 N 4th St Rt LA 70882	342 6943	LDH
2. <del>Sue Forester</del>		<del>342-1367</del>	<del>LDH pharmacy</del>
3. Shana Villa	Bar-Courie	805.972.0854	UNO/Unit
4. Ann Burckell	628 N 4th Rt LA 70882	342-4624	OBH
5. Karen H. Barnes		342-3881	Policy
6. Kim Sullivan		3-6207	Legal



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

July 5, 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 Pharmacy Benefits Management Program - Provider Participation and Reimbursement.

The Department published a Notice of Intent on this proposed Rule in the May 20, 2017 issue of the *Louisiana Register* (Volume 43, Number 5). A public hearing was held on June 29, 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 August 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

Pharmacy Benefits Management Program  
Provider Participation and Reimbursement  
(LAC 50:XXIX.Chapters 1 and 9)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XXIX.Chapters 1 and 9 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing provides coverage and reimbursement for prescription drugs to Medicaid eligible recipients enrolled in the Medicaid Program. The department promulgated a Notice of Intent to amend the provisions governing the Pharmacy Benefits Management Program in order to clarify requirements regarding 340B-covered entities, and to revise the reimbursement methodology to include federal upper limits (FUL), new copayment exemptions and over-the-counter medications added for expansion benefits pursuant to CMS recently released regulations (*Louisiana Register*, Volume 43, Number 1).

The department now proposes to amend the provisions governing the Pharmacy Benefits Management Program in order to

clarify the provisions of the January 20, 2017 Notice of Intent and to: 1) revise the definitions for usual and customary charge and general public; 2) clarify billing/reimbursement requirements for 340B entities that are carved-out of Medicaid; 3) revise the reimbursement language for Federal Supply Schedule and Nominal Price; 4) revise the definition for contract pharmacy; and 5) clarify professional dispensing fee provisions.

## **Title 50**

### **PUBLIC HEALTH-MEDICAL ASSISTANCE**

#### **Part XXIX. Pharmacy**

#### **Chapter 1. General Provisions**

#### **\$105. Medicaid Pharmacy Benefits Management System Point of Sale—Prospective Drug Utilization Program**

A. - G. ...

H. Point-of-Sale Prospective Drug Utilization Review System. This on-line point-of-sale system provides electronic claims management to evaluate and improve drug utilization quality. Information about the patient and the drug will be analyzed through the use of therapeutic modules in accordance with the standards of the National Council of Prescription Drug Programs. The purpose of prospective drug utilization review is to reduce duplication of drug therapy, prevent drug-to-drug interactions, and assure appropriate drug use, dosage and duration. The prospective modules may screen for drug

interactions, therapeutic duplication, improper duration of therapy, incorrect dosages, clinical abuse/misuse and age restrictions. Electronic claims submission inform pharmacists of potential drug-related problems and pharmacists document their responses by using interventions codes. By using these codes, pharmacists will document prescription reporting and outcomes of therapy for Medicaid recipients.

I. - I.5. ...

6. Prescribers and pharmacy providers are required to participate in the educational and intervention features of the Pharmacy Benefits Management System.

J. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S, 46:153, Title XIX of the Social Security Act, and the 1995-96 General Appropriate Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1053 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **§109. Medicare Part B**

A. The Department of Health, Bureau of Health Services Financing pays the full co-insurance and the Medicare deductible on outpatient pharmacy claims for services reimbursed by the

Medicaid Program for Medicaid recipients covered by Medicare Part B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 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 32:1055 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**§111. Copayment**

A. - A.2.d ...

B. The following population groups are exempt from copayment requirements:

1. - 4. ...

4. Native Americans and Alaskan Eskimos;

5. ...

6. home and community-based services waiver recipients.

C. - C.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 32:1055 (June 2006),

amended by the Department of Health, Bureau of Health Services Financing, LR 43:

## **Chapter 9. Methods of Payment**

### **Subchapter A. General Provisions**

#### **§901. Definitions**

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Usual and Customary Charge-the price the provider most frequently charges the general public for the same drug.

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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 32:1061 (June 2006), amended LR 34:87 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1558 (July 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

### **Subchapter B. Professional Dispensing Fee**

#### **§915. General Provisions**

A. The professional dispensing fee shall be set by the department and reviewed periodically for reasonableness, and when deemed appropriate by the Medicaid Program, may be adjusted considering such factors as fee studies or surveys.

*Adjustment Factors—Repealed.*

*Base Rate—Repealed.*

*Base Rate Components—Repealed.*

*Maximum Allowable Overhead Cost—Repealed.*

*Overhead Year—Repealed.*

B. Provider participation in the Louisiana Cost of Dispensing Survey shall be mandatory. A provider's failure to cooperate in the survey shall result in his/her removal from participation as a provider of pharmacy services in the Medicaid Program. Any provider removed from participation shall not be allowed to re-enroll until a professional dispensing fee survey document is properly completed and submitted to 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 36:1558 (July 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**§917. Maximum Allowable Overhead Cost Calculation**

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 36:1559

(July 2010), repealed by the Department of Health, Bureau of Health Services Financing, LR 43:

**§919. Parameters and Limitations**

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 36:1560 (July 2010), repealed by the Department of Health, Bureau of Health Services Financing, LR 43:

**§921. Interim Adjustment to Overhead Cost**

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 36:1560 (July 2010), repealed by the Department of Health, Bureau of Health Services Financing, LR 43:

**§923. Cost Survey**

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 36:1560

(July 2010), repealed by the Department of Health, Bureau of Health Services Financing, LR 43:

**§925. Dispensing Fee**

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 32:1064 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1561 (July 2010), repealed by the Department of Health, Bureau of Health Services Financing, LR 43:

**Subchapter D. Maximum Allowable Costs**

**§949. Fee for Service Cost Limits**

A. - A.2. ...

a. For purposes of these provisions, the term *general public* does not include any person whose prescriptions are paid by third-party payors, including health insurers, governmental entities, and Louisiana Medicaid.

i. - iii. Repealed.

B. - B.3. ...

a. For purposes of these provisions, the term *general public* does not include any person whose prescriptions

are paid by third-party payors, including health insurers, governmental entities, and Louisiana Medicaid.

i. - iii. Repealed.

C. - D.2.c. ...

E. Fee for Service 340B Purchased Drugs. The department shall make payments for self-administered drugs that are purchased by a covered entity through the 340B program at the actual acquisition cost which can be no more than the 340B ceiling price plus the professional dispensing fee, unless the covered entity has implemented the Medicaid carve-out option, in which case 340B drugs should not be billed to or reimbursed by Medicaid. 340B contract pharmacies are not permitted to bill 340B stock to Medicaid. Fee for Service outpatient hospital claims for 340B drugs shall use a cost to charge methodology on the interim and settled at cost during final settlement. Federally Qualified Health Center (FQHC) and Rural Health Clinic (RHC) claims for physician administered drugs shall be included in the all-inclusive T1015 encounter rate.

F. Fee-For-Service Drugs. Drugs acquired at federal supply schedule (FSS) and at nominal price shall be reimbursed at actual acquisition cost plus a professional dispensing fee.

G. - K. Reserved.

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 32:1065 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1561 (July 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**Subchapter E. 340B Program**

**§961. Definitions**

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Contract Pharmacy—a pharmacy under contract with a covered entity that provides services to the covered entity's patients, including the service of dispensing the covered entity's 340B drugs, in accordance with Health Resources and Services Administration (HRSA) guidelines (75 FR 10272, March 5, 2010). Contract pharmacies are not allowed to bill Medicaid for pharmacy claims.

\*\*\*

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 32:1066 (June 2006), amended by the

Department of Health, Bureau of Health Services Financing, LR 43:

## **Subchapter H. Vaccines**

### **§991. Vaccine Administration Fees**

A. Effective for dates of service on and after October 10, 2009, the reimbursement to pharmacies for immunization administration (intramuscular or intranasal) performed by qualified pharmacists, is a maximum of \$15.22. This fee includes counseling, when performed.

B. 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 36:1783 (August 2010), amended LR 40:82 (January 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 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](mailto: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, June 29, 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**  
**June 29, 2017**  
**9:30 a.m.**

RE: Pharmacy Benefits Management Program  
Provider Participation and Reimbursement  
Docket # 06292017-02  
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 June 29, 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

06/29/17

Date

# LDH/BHSF PUBLIC HEARING

## Topic - Pharmacy Benefits Management Program - Provider Participation and Reimbursement

Date - June 29, 2017

### PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Carol Rumbold	628 N 4th St BR LA 70802	342-6943	LDH
2. Melwyn Mendt		342-6159	LDH
3. Sue Fankert		342-1367	LDH
4.			
5. Karen L Barnes		342-3881	Policy
6. Kim Sullivan		3-0207	Legal