



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

September 10, 2021

**Via Statutorily Prescribed Email**

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

**From:** Dr. Courtney N. Phillips  
Secretary

**Re:** Second Report LAC 48:I.Chapter 68 – Adult Residential Care Providers Licensing Standards

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Rule for Adult Residential Care Providers Licensing Standards, LAC 48:I.Chapter 68.

A Notice of Intent on the proposed amendments was published in the July 20, 2021 issue of the *Louisiana Register* (LR 47:951). Written comments were received; however, no requests for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, as a result of the comments, technical changes will be made to the proposed amendments to correct the names for the national organizations, Argentum and LeadingAge. These revisions will be incorporated into the final Rule.

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

Please contact Cynthia York, [Cynthia.York@la.gov](mailto:Cynthia.York@la.gov), if you have any questions or require additional information about this matter.

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

~~11. the American Red Cross as a provider of the cardiopulmonary resuscitation course Red Cross professional rescue course;~~

~~12. the Accreditation Council for Continuing Medical Education (ACCME);~~

~~B. C. ...~~

~~AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8), and (13).~~

~~HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:662 (June 1994), amended LR 22:24 (January 1996), LR 24:1118 (June 1998), LR 35:1238 (July 2009), LR 38:817 (March 2012), LR 45:1762 (December 2019), LR 47:~~

#### **Family Impact Statement**

There will be no family impact in regard to issues set forth in R.S. 49:972.

#### **Poverty Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973. In particular, there should be no known or foreseeable effect on:

~~1. the effect on household income, assets, and financial security;~~

~~2. the effect on early childhood development and preschool through postsecondary education development;~~

~~3. the effect on employment and workforce development;~~

~~4. the effect on taxes and tax credits;~~

~~5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.~~

#### **Provider Impact Statement**

The proposed rulemaking should not have any know or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

~~1. the effect on the staffing level requirements or qualifications required to provide the same level of service;~~

~~2. the total direct and indirect effect of the cost to the providers to provide the same level of service; or~~

~~3. the overall effect on the ability of the provider to provide the same level of service.~~

#### **Public Comment**

Interested persons may submit written comments on these proposed rule changes to Arthur Hickham, Jr., Executive Director, Louisiana State Board of Dentistry, P.O. Box 5256, Baton Rouge, Louisiana, 70821. Written comments must be submitted to and received by the Board within 20 days of the date of the publication of this notice. A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within 20 days of the date of the publication of this notice.

#### **Public Hearing**

A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be in writing and received by the board within 20 days of the date of the publication of this notice.

Arthur Hickham, Jr.  
Executive Director

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Continuing Education Requirements**

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

The proposed rule change will result in a one-time SGR expenditure of \$500 in FY 22 for the LA State Board of Dentistry (LSBD) to publish the notice of intent and proposed rule revision in the Louisiana Register. The proposed rule change will not affect expenditures of local governmental units.

The proposed rule change adds continuing education courses approved or sponsored by the American Association of Dental Boards to the list of approved courses for providers licensed by the LSBD.

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

The proposed rule change will not affect revenue collections for state or local governmental units.

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

The proposed rule change will benefit persons licensed by the LA State Board of Dentistry, as they will now be allowed to receive continuing education credits for completing courses approved or sponsored by the American Association of Dental Boards.

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

The proposed rule changes should not impact competition or employment. However, if there is any effect on competition or employment it would be indeterminate and likely negligible.

Arthur Hickham, Jr.  
Executive Director  
2107#033

Alan M. Boxberger  
Staff Director  
Legislative Fiscal Office

## **NOTICE OF INTENT**

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

#### **Adult Residential Care Providers Licensing Standards (LAC 48:I.Chapter 68)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapter 68 as authorized by R.S. 36:254 and 40:2166.1-40:2166.8. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the licensing standards for adult residential care providers (ARCPs) in order to: 1) establish requirements and limitations for visitation by clergy and immediate family members or other designated persons during a declared public health emergency; 2) adopt provisions governing the inactivation of the ARCP's license due to a declared or non-

declared disaster or emergency; and 3) revise the language in the administrative Rule to ensure consistency with other licensing standards.

## **Title 48**

### **PUBLIC HEALTH—GENERAL**

#### **Part I. General Administration**

#### **Subpart 3. Licensing and Certification**

### **Chapter 68. Adult Residential Care Providers**

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

#### **§6801. Introduction**

A. ...

B. An ARCP serves individuals in a congregate setting and is operational 24 hours per day, seven days per week, with a coordinated array of supportive personal services, 24-hour supervision and assistance (scheduled and unscheduled), activities and health-related services that are designed to:

B.1. - D. ...

E. The Department of Health (LDH) does not require, and will not issue ARCP licenses for the provision of lodging and meals only or homeless shelters.

E.1. - H. ...

1. Upon approval of the application for renewal of licensure, an existing ARCP shall receive a new ARCP license with its level of service, pursuant to R.S. 40:2166.5.

EXAMPLE: ARCP level 1-personal care homes; ARCP level 2-shelter care homes; ARCP level 3-assisted living facilities; ARCP level 4-adult residential care provider.

2. An existing ARCP shall be required to submit to the department a written attestation which certifies that the ARCP is, and/or shall be in compliance with these provisions by August 15, 2015.

3. If an existing ARCP is electing to begin providing medication administration after August 15, 2015, the ARCP shall be required to submit to the department a written attestation which certifies that the licensing requirements to provide such services have been met.

4. Failure of an existing ARCP to submit the required attestation(s) shall be grounds for either denial of license or revocation of licensure.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1086 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

#### **§6803. Definitions and Abbreviations**

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*Cessation of Business*—provider is non-operational and/or has stopped offering or providing services to the community.

*Change of Ownership (CHOW)*—the addition, substitution, or removal, whether by sale, transfer, lease, gift, or otherwise, of a licensed health care provider subject to this rule by a person, corporation, or other entity which results in a CHOW or change of controlling interest of assets or other equity interests of the licensed entity may constitute a CHOW of the licensed entity. An example of an action that constitutes a CHOW includes, but is not limited to, the leasing of the licensed entity.

1. - 4. Repealed.

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*Department*—the Louisiana Department of Health (LDH).

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*HSS*—the LDH, Office of the Secretary, Health Standards Section.

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*Level 2 ARCP*—an ARCP that provides adult residential care for compensation to nine or more residents, but no more than 16, who are unrelated to the licensee or operator in a congregate living setting.

*Level 3 ARCP*—an ARCP that provides adult residential care for compensation to 17 or more residents who are unrelated to the licensee or operator in independent apartments equipped with kitchenettes, whether functional or rendered nonfunctional for reasons of safety.

NOTE: Kitchenettes are not required in apartments designated for the specialized dementia care program.

*Level 4 ARCP*—an ARCP that provides adult residential care including intermittent nursing services for compensation to 17 or more residents who are unrelated to the licensee or operator in independent apartments equipped with kitchenettes, whether functional or rendered nonfunctional for reasons of safety.

NOTE: Kitchenettes are not required in apartments designated for the specialized dementia care program.

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*May*—Repealed.

*Non-Operational*—the ARCP location is not open for business operation on designated days and hours as stated on the licensing application and business location signage.

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*Nursing Director*—a registered nurse (RN) licensed by the state of Louisiana who directs or coordinates nursing services in the ARCP.

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*PRN*—Repealed.

\*\*\*

*Resident Representative*—a person who has been authorized by the resident in writing to act upon the resident's direction regarding matters concerning the resident's health or welfare, including having access to personal records contained in the resident's file and receiving information and notices about the overall care, condition and services for the resident. No member of the governing body, administration or staff or an ARCP or any member of their family shall serve as the resident's representative unless they are related to the resident by blood or marriage.

*Shall*—Repealed.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:2166.1-2166.8 and R.S. 40:1101.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1086 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1976 (October 2017), LR 47:

#### **§6805. Licensure Requirements**

A. All ARCPs shall be licensed by LDH. The department is the only licensing authority for ARCPs in the state of Louisiana. It shall be unlawful to operate an ARCP without possessing a current, valid license issued by the department. The license shall:

1. - F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1088 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

#### **§6807. Initial Licensure Application Process**

A. An initial application for licensing as an ARCP shall be obtained from the department. A completed initial license application packet for an ARCP shall be submitted to and approved by the department prior to an applicant providing ARCP services. An applicant shall submit a completed initial licensing packet to the department, which shall include:

1. - 5.b....

6. proof of general liability insurance of at least \$300,000 per occurrence;

7. proof of worker's compensation insurance as required by state law;

8. proof of professional liability insurance of at least \$100,000 per occurrence/\$300,000 per annual aggregate, or proof of self-insurance of at least \$100,000, along with proof of enrollment as a qualified health care provider with the Louisiana Patient's Compensation Fund (PCF):

a. if the ARCP is self-insured and is not enrolled in the PCF, professional liability limits shall be \$1,000,000 per occurrence/\$3,000,000 per annual aggregate.

NOTE: The LDH/HSS shall specifically be identified as the certificate holder on any policies and any certificates of insurance issued as proof of insurance by the insurer or producer (agent).

9. if applicable, a clinical laboratory improvement amendments (CLIA) certificate or a CLIA certificate of waiver;

10. a completed disclosure of ownership and control information form;

11. a floor sketch or drawing of the premises to be licensed;

12. the days and hours of operation;

13. an FNR approval for a level 4 ARCP;

14. a copy of the letter approving architectural plans from the OSFM;

15. the organizational chart of the ARCP; and

16. any documentation or information required by the department for licensure.

B. ...

C. Once the initial licensing application packet has been approved by the department, the ARCP applicant shall notify the department of readiness for an initial licensing survey within 90 days. If an applicant fails to notify the department of readiness for an initial licensing survey within 90 days of approval, the initial licensing application shall be closed. After an initial licensing application is closed, an applicant who is still interested in becoming an ARCP must submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process subject to any FNR requirements.

D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1088 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

#### **§6809. Initial Licensing Surveys**

A. - D. ...

1. The provider shall submit an acceptable plan of correction to LDH for approval, and the provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license. The required components of a plan of correction shall:

a. address how corrective actions were accomplished for those residents found to have been affected by the deficient practice;

b. describe how other residents that have the potential to be affected by the deficient practice will be identified; and what will be done for them;

c. include the measures that will be put in place or the system changes that will be made to ensure that the deficient practice will not recur;

d. indicate how the facility plans to monitor its performance; and

e. include dates when corrective action will be completed. This date shall not exceed 60 days from exit date of survey.

2. ...

3. If all such noncompliance or deficiencies are not corrected on the follow-up survey, or if new deficiencies are cited on the follow-up survey, the provisional license shall expire and the provider shall be required to begin the initial licensing process again by submitting a new initial license application packet, fee and any required FNR approval.

E. - I. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1089 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

#### **§6811. Types of Licenses and Expiration Dates**

A. - A.3....

##### **4. Provisional License**

a. The department, in its sole discretion, may issue a provisional license to an existing licensed ARCP for a period not to exceed six months, for any of the following reasons, including but not limited to:

i. the existing ARCP has more than three validated complaints in one licensed year period;

ii. the existing ARCP has been issued a deficiency that involved placing a participant at risk for serious harm or death;

iii. the existing ARCP has failed to correct deficient practices within 60 days of being cited for such deficient practices or at the time of a follow-up survey; or

iv. the existing ARCP is not in substantial compliance with all applicable federal, state, departmental, and local statutes, laws, ordinances, rules, regulations, and fees at the time of renewal of the license.

v. Repealed.

A.4.b. - B. ...

1. If a timely administrative appeal has been filed by the provider regarding the license revocation, suspension, or termination, the administrative appeal shall be suspensive, and the provider shall be allowed to continue to operate and

provide services until such time as the DAL or department issues a decision on the license revocation, suspension, or termination.

B.2. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1089 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

**§6813. Changes in Licensee Information or Personnel**

A. - B.2.g. ...

C. A CHOW of the ARCP shall be reported in writing to the department within five business days of the CHOW. The license of an ARCP is not transferable or assignable; the license of an ARCP cannot be sold. The new owner shall submit the legal CHOW document, all documents required for a new license, and the applicable licensing fee. Level 4 ARCPs shall also submit a FNR application for approval. Once all application requirements have been completed and approved by the department, a new license shall be issued to the new owner.

D. - F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1090 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

**§6815. Renewal of License**

A. License Renewal Application. The ARCP shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the existing current license. The license renewal application packet shall include:

1. - 6.b....

7. proof of professional liability insurance in accordance with §6807;

8. proof of general liability insurance of at least \$300,000 per occurrence;

9. proof of worker's compensation insurance as required by state law; and

10. any other documentation required by the department.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1091 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

**§6817. Denial of License, Revocation of License, Denial of License Renewal, Operation without License, Penalty**

A. - D.15. ...

E. When a licensed ARCP receives a notice of license revocation or suspension, the ARCP shall notify its current residents and their representatives/family members (if applicable) of the license revocation or suspension action. The notice shall:

1. include the following:

a. the action taken by the department;

b. whether the facility is appealing the action; and

c. information regarding a resident's rights to select another ARCP; and

2. be posted in a conspicuous place inside the licensed premises where residents can access the notice.

F. In the event an ARCP license is revoked or renewal is denied, any owner, officer, member, manager, or director of such ARCP is prohibited from owning, managing, directing or operating another ARCP for a period of two years from the date of the final disposition of the revocation or denial action.

1. - 3. Repealed.

**G. Operation Without License and Penalty**

1. An ARCP shall not operate without a license issued by the department. Any such provider operating without a license shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$100 for each day of operation without a license up to a maximum of \$1,000 or imprisonment of not more than six months, or both. It shall be the responsibility of the department to inform the appropriate district attorney of the alleged violation to assure enforcement.

2. If an ARCP is operating without a license issued by the department, the department shall have the authority to issue an immediate cease and desist order to that provider. Any such provider receiving such a cease and desist order from the department shall immediately cease operations until such time as that provider is issued a license by the department.

3. The department shall seek an injunction in the Nineteenth Judicial District Court against any provider who receives a cease and desist order from the department under §6817.B and who does not cease operations immediately. Any such provider against whom an injunction is granted shall be liable to the department for attorney fees, costs, and damages.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1091 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

**§6819. Notice and Appeal of License Denial, License Revocation and Denial of License Renewal**

A. - C. ...

1. The ARCP shall request the administrative appeal within 30 days of the receipt of the results of the administrative reconsideration. The ARCP may forego its rights to an administrative reconsideration, and if so, the ARCP shall request an administrative appeal within 30 days of the receipt of the notice of the license denial, license revocation, or denial of license renewal. The request for administrative appeal shall be in writing and shall be submitted to the DAL or its successor.

C.2. - E.5.e. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1092 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

**§6823. Statement of Deficiencies**

A. - C.3. ...

4. The request for administrative reconsideration of the deficiencies must be made to the department's HSS.

5. - 6. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1093 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

**§6825. Cessation of Business**

A. Except as provided in §6881, §6882, and §6883 of these licensing regulations, a license shall be immediately null and void if an ARCP ceases to operate.

B. - H. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1094 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

**§6829. Policy and Procedures**

A. The ARCP shall have written policies and procedures approved by the governing body that, at a minimum, address the following:

1. - 15. ...

16. record-keeping including, but limited to the use of electronic signature authentication and identification for the electronic signature of a resident and/or the resident's representative in accordance with R.S. 40:1163.1 or current law;

17. infection control measures, including but not limited to the use of personal protective equipment (PPE), as appropriate;

18. fall assessment and prevention; and

19. any other area required in accordance with memorandums issued by the department's HSS.

B. - B.9. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1095 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1976 (October 2017), LR 47:

**§6831. Visitation by Members of the Clergy During a Declared Public Health Emergency**

A. For purposes of §6831 and §6832, a public health emergency (PHE) is a declaration made pursuant to the Louisiana Health Emergency Powers, R.S. 29:760 et seq.

B. For purposes of §6831 and §6832, clergy shall be defined as follows:

1. as a minister, priest, preacher, rabbi, imam, Christian Science practitioner; or

2. other similar functionary of a religious organization; or

3. an individual reasonably believed to be such a clergy member by the person consulting him.

C. For purposes of §6831 and §6832, immediate family shall mean the following in order of priority:

1. spouse;
2. natural or adoptive parent, child, or sibling;
3. stepparent, stepchild, stepbrother, or stepsister;
4. father-in-law, mother-in-law, daughter-in-law, son-in-law, brother-in-law, or sister-in-law;
5. grandparent or grandchild; or
6. spouse of a grandparent or grandchild; or
7. legal or designated representative of the resident.

D. For purposes of §6831 and §6832, resident shall mean a resident or client of a licensed ARCP in Louisiana, or the legal or designated representative of the resident or client.

E. A licensed ARCP shall comply with any federal law, regulations, requirement, order or guideline regarding visitation in ARCPs issued by any federal government agency during a declared PHE. The provisions of the licensing rules in §6829.F-I shall be preempted by any federal statute, regulation, requirement, order or guideline from a federal government agency that requires an ARCP to restrict resident visitation in a manner that is more restrictive than the rules.

F. An ARCP facility shall comply with any Louisiana state health officer (SHO) order or emergency notice regarding visitation in ARCPs during a declared PHE.

G. An ARCP facility shall comply with any executive order or proclamation issued by the governor of the state of Louisiana regarding visitation in ARCPs during a declared PHE.

H. The provisions of this Section regarding visitation by members of the clergy shall apply to all ARCPs licensed by the Department of Health.

I. Subject to the requirements of §6831.E-G, each ARCP shall allow members of the clergy to visit residents of the ARCP during a declared PHE when a resident, or his legal or designated representative, requests a visit with a member of the clergy, subject to the following conditions and requirements:

1. Each ARCP shall have a written policy and procedure addressing visitation by members of the clergy. A copy of the written policy and procedure shall be available, without cost, to the resident and his legal or designated representative, upon request. The ARCP shall provide a link to an electronic copy of the policy and procedure to a member of the clergy, upon request.

2. An ARCP's policy and procedure regarding clergy visitation may adopt reasonable time, place, and manner restrictions, provided that such restrictions are implemented by the ARCP, in consultation with appropriate medical personnel, for the purpose of mitigating the possibility of transmission of any infectious agent or infectious disease or for the purpose of addressing the medical condition or clinical consideration of an individual resident.

3. An ARCP's policy and procedure on clergy visitation shall, at a minimum, require the following:

a. that the ARCP give special consideration and priority for clergy visitation to residents receiving end-of-life care;

b. that a clergy member will be screened for infectious agents or infectious diseases, utilizing at least the current screening or testing methods and protocols

recommended by the Centers for Disease Control and Prevention (CDC), as applicable; if there is a current Louisiana SHO order or emergency notice that requires more rigorous screening or testing methods, or protocols, then the ARCP shall utilize those methods and protocols;

c. that a clergy member not be allowed to visit an ARCP resident if such clergy member has obvious signs or symptoms of an infectious agent, or infectious disease, or if such clergy member tests positive for an infectious agent, or infectious disease;

d. that a clergy member not be allowed to visit an ARCP resident if the clergy member refuses to comply with the provisions of the ARCP's policy and procedures or refuses to comply with the ARCP's reasonable time, place, and manner restrictions;

e. that a clergy member be required to wear PPE as determined appropriate by the ARCP, considering the resident's medical condition or clinical considerations; at the ARCP's discretion PPE may be made available by the ARCP to clergy members.

f. that an ARCP's policy and procedure include provisions for compliance with a Louisiana SHO order or emergency notice and with any governor's executive order or proclamation limiting visitation during a declared PHE; and

g. that an ARCP's policy and procedure include provisions for compliance with any federal law, regulations, requirements, orders, or guidelines regarding visitation in ARCPs issued by any federal government agency during a declared PHE.

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

**HISTORICAL NOTE:** Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:

**§6832. Visitation by Immediate Family Members and Other Designated Persons During a Declared Public Health Emergency**

A. A licensed ARCP shall comply with any federal law, regulation, requirement, order, or guideline regarding visitation in ARCPs issued by any federal government agency during a declared PHE. The provisions of the licensing rules in §6832.B-E shall be preempted by any federal statute, regulation, requirement, order or guideline from a federal government agency that require an ARCP to restrict resident visitation in a manner that is more restrictive than the rules.

B. ARCPs shall comply with any Louisiana SHO order or emergency notice regarding visitation in ARCPs during a declared PHE.

C. ARCPs shall comply with any executive order or proclamation issued by the governor of the state of Louisiana regarding visitation in an ARCP during a declared PHE.

D. The provisions of this Section regarding visitation by immediate family members of the resident and other designated persons shall apply to all ARCPs licensed by the Department of Health.

E. Subject to the requirements of §6832.A-C, each ARCP shall allow immediate family members and other

designated persons to visit a resident of the ARCP during a declared PHE when a resident, or his legal or designated representative, requests a visit with immediate family members and other designated persons, subject to the following conditions and requirements:

1. Each ARCP shall have a written policy and procedure addressing visitation by immediate family members and other designated persons. A copy of the written policy and procedure shall be available, without cost, to the resident and his legal or designated representative, upon request. The ARCP shall provide a link to an electronic copy of the policy and procedure to immediate family members and other designated persons, upon request.

2. An ARCP's policy and procedure regarding visitation by immediate family members and other designated persons may adopt reasonable time, place, and manner restrictions, provided that such restrictions are implemented by the ARCP, in consultation with appropriate medical personnel, for the purpose of mitigating the possibility of transmission of any infectious agent or infectious disease or for the purpose of addressing the medical condition or clinical considerations of an individual resident.

3. An ARCP's policy and procedure on visitation by immediate family members and other designated persons shall, at a minimum, require the following:

a. that the ARCP give special consideration and priority for visitation by immediate family members and other designated persons to residents receiving end-of-life care;

b. that visitation by immediate family members of the residents and other designated persons will be screened for infectious agents or infectious diseases, utilizing at least the current screening or testing methods and protocols recommended by the CDC, as applicable; if there is a current Louisiana SHO order or emergency notice that requires more rigorous screening or testing methods and protocols, then the ARCP shall utilize those methods and protocols;

c. that an immediate family member or other designated person not be allowed to visit an ARCP resident if such immediate family member or other designated person has obvious signs or symptoms of an infectious agent or infectious disease, or if such immediate family member or other designated person tests positive for an infectious agent or infectious disease;

d. that an immediate family member or other designated persons not be allowed to visit an ARCP resident if the immediate family member and other designated persons refuses to comply with the provisions of the ARCP's policy and procedure or refuses to comply with the provisions of the ARCP's reasonable time, place, and manner restrictions;

e. that immediate family members and other designated persons be required to wear PPE as determined appropriate by the ARCP, considering the resident's medical condition or clinical consideration; at the ARCP's discretion, PPE may be made available by the ARCP to immediate family members and other designated persons;



f. that an ARCP's policy and procedure include provisions for compliance with a Louisiana SHO order or emergency notice and with any governor's executive order or proclamation limiting visitation during a declared PHE; and

g. that an ARCP's policy and procedure include provisions for compliance with any federal law, regulations, requirements, orders, or guidelines regarding visitation in ARCPs issued by any federal government agency during a declared PHE.

#### **Subchapter C. Residency Criteria, Person-Centered Service Plans, and Residency Agreements**

##### **§6833. Pre-Residency and Continued Residency**

A. - A.8. ...

B. The ARCP shall complete and maintain a pre-residency screening of the prospective resident to assess the applicant's needs and appropriateness for residency.

1. The pre-residency screening shall include:

a. the resident's physical and mental status, including but not limited to, fall risk assessment;

b. - 2. ...

C. Prohibited Health Conditions. There are individuals who are not eligible for residency in ARCPs because their conditions and care needs are beyond the scope of the ARCP's capacity to deliver services and ensure residents' health, safety, and welfare. ARCPs may not enter into agreements with residents with such conditions. These prohibited health conditions include:

1. unstageable, stage 3, or stage 4 pressure ulcers;

2. use of feeding tubes, including but not limited to, nasogastric or gastrostomy tubes;

C.3. - H.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1095 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

##### **§6835. Person-Centered Service Plan**

A. - A.1. ...

2. If the resident's person-centered service plan includes staff administration of medication or intermittent nursing services, the assessment for those services shall be completed by an RN.

B. - D. ...

E. All plans, reviews, and updates shall be signed by the resident or the resident's representative, if applicable. The signature of the resident's representative on such documents may be submitted electronically in accordance with R.S. 40:1163.1 or current law pertaining to electronic signature authentication and identification, or signed in person.

F. All plans, reviews, and updates shall be signed by the ARCP staff. If the resident's PCSP includes staff administration of medication or intermittent nursing services, an RN shall also sign the plans, reviews, and updates.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1096 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

#### **Subchapter D. Adult Residential Care Provider Services**

##### **§6839. General Provisions**

A. - B.2. ...

3. The ARCP shall provide a sanitary environment to avoid sources and transmission of infections and communicable diseases which meet or exceed the latest criteria established by the CDC, Occupational Safety and Health Administration (OSHA), and *State Sanitary Code*.

C. Number of Residents. The maximum number of residents that an ARCP shall serve will be based upon the level and plan as approved by the OSFM and/or the department's HSS.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1097 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

##### **§6843. Medication Administration**

A. The ARCP shall have written policies and procedures on medication administration including self-administration, assistance with self-administration, gratuitous administration or third party administration, and staff administration of medications. There shall also be policies regarding obtaining and refilling medications, storing and controlling medications, disposing of medications, documentation of medication administration, and assistance with self-administration.

B. - C.2.b.v. ...

c. Assistance with self-administration of medications shall not include:

i. - iv. ...

v. placing medications in a feeding tube;

vi. mixing medications with foods or liquids; or

vii. filling a single day or multi-day pill organizer for the resident.

##### **3. Staff Administration of Medication**

a. - c. ...

d. The ARCP shall require pharmacists to perform a monthly review of all ordered medication regimens for possible adverse drug interactions and to advise the ARCP and the prescribing health care provider when adverse drug interactions are detected. The ARCP shall have documentation of this review and notification in the resident's record.

B.3.e. - F.6. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1098 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

##### **§6845. Intermittent Nursing Services**

A. - B.1. ...

2. The ARCP shall have written policies and procedures governing intermittent nursing services, including but not limited to the following:

a. - h. ...

i. infection control policies and procedures that meet or exceed the latest criteria established by the CDC, OSHA, and *State Sanitary Code*.



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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1100 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

#### **§6847. Transportation**

A. - C. ...

D. When transportation services are provided by the ARCP, the ARCP shall:

1. ensure drivers are trained in cardio pulmonary resuscitation (CPR) and first aid, and in assisting residents in accordance with the individual resident's needs;

D.2 - F. ....

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1100 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

#### **§6849. Meals Provided by the ARCP**

A. - H. ...

I. All food preparation areas (excluding areas in residents' units) shall be maintained in accordance with LAC Title 51 *Sanitary Code*. Pets are not allowed in food preparation and serving areas.

J. - P. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1101 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

#### **Subchapter E. Resident Protection**

##### **§6855. Resident Rights**

A. ARCPs shall have a written policy on resident rights and shall post and distribute a copy of those rights. In addition to the basic civil and legal rights enjoyed by other adults, residents shall have the rights listed below. ARCP policies and procedures must be in compliance with these rights. Residents shall:

1. - 12. ...

13. be notified, along with their representative in writing by the ARCP when the ARCP's license status is modified, suspended, revoked or denied renewal and to be informed of the basis of the action and the right to select another ARCP in accordance with §6817.E.1-2;

14. - 22. ...

23. be informed of how to lodge a complaint with the HSS, the Office of Civil Rights, the Americans with Disabilities Act, the Office of the State Ombudsman, and the Advocacy Center. Contact information including telephone numbers and addresses for these entities shall be posted in a prominent location which is easily accessible to residents;

24. - 24.a. ...

b. the ARCP personnel knock before entering the apartment or room(s) and not enter without the resident's consent, except in case of an emergency or unless medically contraindicated; and

25. have the right to private and uncensored communications, including receiving and sending unopened mail.

B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1103 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

#### **§6861. Resident Personal Property and Funds**

A. - B.2....

3. If an ARCP offers the service of safekeeping readily accessible personal funds up to \$200, and if a resident wishes to entrust funds, the ARCP shall:

a. obtain written authorization from the resident and/or the resident's representative, if applicable, as to safekeeping of funds;

b. provide each resident with a receipt listing the amount of money the ARCP is holding in trust for the resident;

c. maintain a current balance sheet containing all financial transactions to include the signatures of staff and the resident for each transaction; and

d. afford the resident the right to examine the account during routine business hours.

4. If an ARCP offers the service of assisting with management of funds in excess of \$200, the following shall apply.

a. The ARCP shall obtain written authorization to manage the resident's funds from the resident and the representative if applicable.

b. The resident shall have access through quarterly statements and, upon request, financial records.

c. The ARCP shall keep funds received from the resident for management in an individual account in the name of the resident.

d. Unless otherwise provided by state law, upon the death of a resident, the ARCP shall provide the executor or director of the resident's estate, or the resident's representative, if applicable, with a complete accounting of all the resident's funds and personal property being held by the ARCP. The ARCP shall release the funds and property in accordance with all applicable state laws.

5. If ARCP staff is named as representative payee by Social Security or the Railroad Retirement Board or as fiduciary by the U.S. Department of Veterans Affairs, in addition to meeting the requirements of those agencies, the ARCP shall hold, safeguard, manage and account for the personal funds of the resident as follows.

a. The ARCP shall deposit any resident's personal funds in excess of \$50 in an interest bearing account (or accounts) separate from the ARCP's operating accounts, and that credits all interest earned on the resident's funds to that account. In pooled accounts, there shall be a separate accounting for each resident's share.

b. The ARCP shall maintain a resident's personal funds that do not exceed \$50 in a non-interest bearing account, interest bearing account, or petty cash fund.

c. The ARCP shall establish and maintain a system that assures a full, complete and separate accounting, according to generally accepted accounting principles, of each resident's personal funds entrusted to the ARCP on the resident's behalf.

i. The system shall preclude any comingling of resident funds with ARCP funds or with the funds of any person other than another resident.

ii. The individual financial record shall be available through quarterly statements and on request to resident and/or the resident's representative, if applicable.

5.d. - 6.c.ii. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1104 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

#### **Subchapter F. Requirements Related to Staff, Record-Keeping and Incident and Accident Reports**

#### **§6863. General Provisions**

A. - C. ...

D. A staff member trained in the use of CPR and first aid shall be on duty at all times.

E. - G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1105 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1976 (October 2017), LR 47:

#### **§6865. Staffing Requirements**

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

c. Director Qualifications

i. - ii.(d). ...

iii. Additionally, for level 4 ARCPs the director shall have successfully completed an adult residential care/assisted living director certification/training program consisting of, at a minimum, 12 hours of training that has been approved by any one of the following organizations:

(a). - (d). ...

(e). any of the national assisted living associations, including the:

(i). ...

(ii). Assisted Living Federation of America (ALFA);

(iii). LeadingAge Gulf States; or

(iv). National Association of Long Term Care Administrators Board (NAB).

A.1.c.iv. - B.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1105 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1977 (October 2017), LR 47:

#### **§6867. Staff Training**

A. - A.3.b. ...

B. The following training topics shall be covered in orientation and annually thereafter for all staff and ARCP contracted providers having direct contact with residents:

1. - 5. ...

6. infection control, including, but not limited to PPE, as appropriate.

C. - C.5. ...

#### **D. Continuing Education for Directors**

1. All directors shall obtain 12 continuing education units per year that have been approved by any one of the following organizations:

a. - d. ...

e. any of the national assisted living associations, including:

i. - ii. ...

iii. LeadingAge Gulf States; or

f. any of the nationally recognized organizations for long term care that offers continuing education for assisted living providers, such as NAB.

D.2. - E. ...

#### **F. Dementia Training**

1. All employees shall be trained in the care of persons diagnosed with dementia and dementia-related practices that include or that are informed by evidence-based care practices. All new employees shall receive such training within 90 days from the date of hire and annually as required in accordance with §6867.F.1-10.b.

2. - 2.b.ii. ...

c. Employees who have only incidental contact with residents shall receive general written information provided by the ARCP on interacting with residents with dementia within 90 days of employment and annually.

3. ...

a. Employees who provide direct face-to-face care to residents shall be required to obtain at least two hours of dementia-specific training within 90 days of employment and annually. This training shall include the following topics:

i. - ii. ...

b. All other employees shall receive general written information provided by the ARCP on interacting with residents with dementia within 90 days of employment and annually.

4. - 10.b. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1106 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1977 (October 2017), LR 47:

#### **§6869. Record Keeping**

A. - B.9. ...

C. Resident Records. An ARCP shall maintain a separate record for each resident. Such record shall be current and complete and shall be maintained in the ARCP in which the resident resides and readily available to ARCP staff and department staff. Each record shall contain the information below including but not limited to:

1. - 14. ...

15. advance directives and/or Louisiana physician orders for scope of treatment (LaPOST), if any;

16. requirements for assistance in emergency evacuation; and

17. documentation of any third party services provided and documentation of any notifications provided to the resident's representative regarding services.

D. - D.4. ...

5. In the event of a CHOW, the resident records shall remain with the ARCP.

D.6. - E.5. ...

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1107 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

#### **Subchapter G. Emergency Preparedness**

##### **§6879. Notification**

A. - E. ...

F. Effective immediately upon notification of an emergency declared by the Secretary, all ARCPs licensed in Louisiana shall file an electronic report with the ESF-8 Portal and its applications during a declared emergency, disaster, or a PHE.

1. - 3. ...

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1111 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

##### **§6881. Authority to Re-open After an Evacuation,**

###### **Temporary Relocation or Temporary Cessation of Operation**

A. The following applies to any ARCP that evacuates, temporarily relocates or temporarily ceases operation at its licensed location due to an emergency either declared or non-declared, in accordance with state statutes.

A.1. - G.2.f. ...

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1112 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

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

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

1. the licensed provider shall submit written notification to the HSS within 60 days of the date of the executive order or proclamation of emergency or disaster that:

a. the ARCP has experienced an interruption in the provisions of services as a result of events that are the subject of such executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;

b. the licensed ARCP intends to resume operation as an ARCP in the same service area;

c. includes an attestation that the emergency or disaster is the sole causal factor in the interruption of the provision of services;

d. includes an attestation that all residents have been properly discharged or transferred to another provider; and

e. provides a list of each resident and where that resident is discharged or transferred to;

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

3. the licensed ARCP continues to pay all fees and cost due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties; and

4. the licensed ARCP continues to submit required documentation and information to the department.

B. Upon receiving a completed written request to inactivate an ARCP license, the department shall issue a notice of inactivation of license to the ARCP.

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

1. The ARCP shall submit a written license reinstatement request to the licensing agency of the department 60 days prior to the anticipated date of reopening.

a. The license reinstatement request shall inform the department of the anticipated date of opening, and shall request scheduling of a licensing survey.

b. The license reinstatement request shall include a completed licensing application with appropriate licensing fees.

2. The provider resumes operating as an ARCP in the same service area within one year.

D. Upon receiving a completed written request to reinstate an ARCP license, the department shall conduct a licensing survey. If the ARCP meets the requirements for licensure and the requirements under this Section, the department shall issue a notice of reinstatement of the ARCP license.

1. The licensed capacity of the reinstated license shall not exceed the licensed capacity of the ARCP at the time of the request to inactivate the license.

E. No CHOW in the ARCP shall occur until such ARCP has completed repairs, renovations, rebuilding or replacement construction, and has resumed operations as an ARCP.

F. The provisions of this Section shall not apply to an ARCP which has voluntarily surrendered its license and ceased operation.

G. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the ARCP license.

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

**HISTORICAL NOTE:** Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:

##### **§6883. Inactivation of License Due to a Non-Declared Disaster or Emergency**

A. A licensed ARCP 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 ARCP shall submit written notification to the HSS within 30 days of the date of the non-declared emergency or disaster stating that:

a. the ARCP 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 ARCP intends to resume operation as an ARCP provider in the same service area;

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

d. the licensed ARCP'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 the initiation of request may be granted at the discretion of the department.

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

3. the licensed ARCP 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 an ARCP license, the department shall issue a notice of inactivation of license to the ARCP.

C. Upon the facility's receipt of the department's approval of request to inactivate the facility's license, the facility 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 ARCP shall resume operating as an ARCP in the same service area within two years of the approval renovations/construction plans by the OSFM and the OPH as required.

EXCEPTION: If the facility requires an extension of this timeframe due to circumstances beyond the facility's control, the department will consider an extended time period to complete construction or repairs. Such written requests for extension shall show facility's active efforts to complete construction or repairs and the reasons for request for extension of facility'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, an ARCP which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

1. the ARCP 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 an ARCP license, the department may conduct a licensing or physical environment survey. The department may issue a notice of reinstatement if the facility has met the requirements for licensure including the requirements of this Subsection.

G. No CHOW in the ARCP shall occur until such ARCP has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as an ARCP.

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:

#### **Subchapter H. Physical Environment**

##### **§6885. General Requirements and Authority**

A. - B. ...

C. Design Criteria. The project shall be designed in accordance with the following criteria:

1. - 2.

3. the current department licensing regulations for ARCPs.

D. - P. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1113 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

##### **§6889. Resident Dining and Common Areas**

A. - J. ...

K. Adult Residential Care Providers in Shared Businesses

1. ...

2. Entrance. If more than one business occupies the same building, premises, or physical location, the ARCP shall have its own entrance. This separate entrance shall have appropriate signage and shall be clearly identifiable as belonging to the ARCP.

3. Nothing in this Section shall prohibit a health care provider occupying the same building, premises, or physical location as another health care provider from utilizing the entrance, hallways, stairs, elevators, or escalators of another health care provider to provide access to its separate entrance.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1115 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

## §6891. Resident Personal Space

A. - C.9. ...

D. Requirements for Resident Apartments in levels 3 and 4

1. All apartments in levels 3 and 4 shall be independent and shall contain at a minimum the following areas:

a. - b. ...

c. a kitchenette that can be distinguished by sight from other areas in the apartment;

NOTE: Kitchenettes are not required in apartments designated for the specialized dementia care program.

d. - e. ...

2. Square Footage in Level 3 and 4 ARCPs

a. Efficiency/studio apartments shall have a minimum of 200 net square feet of floor space, excluding bathrooms and closets and/or wardrobes.

b. - 13. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1115 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1977 (October 2017), LR 47:

### Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by allowing clergy and immediate family members, or other designated persons to visit ARCP residents during a declared public health emergency.

### Poverty Impact Statement

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

### Small Business Analysis

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

### Provider Impact Statement

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

### Public Comments

Interested persons may submit written comments to Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on August 29, 2021.

## Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on August 9, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on August 26, 2021 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after August 9, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Adult Residential Care Providers Licensing Standards

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

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 21-22. It is anticipated that \$5,340 will be expended in FY 21-22 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections since the licensing fees, in the same amounts, will continue to be collected.

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

The proposed rule amends the provisions governing the licensing standards for adult residential care providers (ARCPs) in order to: 1) establish requirements and limitations for visitation by clergy and immediate family members or other designated persons during a declared public health emergency; 2) adopt provisions governing the inactivation of the ARCP's license due to a declared or non-declared disaster or emergency; and 3) revise the language in the administrative Rule to ensure consistency with other licensing standards. This proposed Rule will be beneficial to the residents of ARCP by allowing visits by family and clergy during a PHE. It is anticipated that implementation of this proposed Rule will not result in costs to adult residential care providers in FY 21-22, FY 22-23, and FY 23-24, but will be beneficial by establishing standards for visitation during a PHE and inactivation of license due to a declared or non-declared disaster or emergency.

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

This rule has no known effect on competition and employment.

## NOTICE OF INTENT

### Department of Health Bureau of Health Services Financing

#### Free-Standing Birth Centers Licensing Standards (LAC 48:I.Chapter 67)

The Department of Health, Bureau of Health Services Financing proposes to repeal and replace the provisions of LAC 48:I.Chapter 67 as authorized by R.S. 36:254. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 332 of the 2019 Regular Session of the Louisiana Legislature authorized the Department of Health to promulgate Rules relative to the licensing of free-standing birth centers (FSBCs). In compliance with Act 332, the Department of Health, Bureau of Health Services Financing proposes to repeal the existing LAC 48:I.Chapter 67 governing the licensing of hospitals in its entirety as these provisions are incorporated elsewhere in the Louisiana Administrative Code and replace it with provisions governing the licensing of FSBCs.

#### Title 48

#### PUBLIC HEALTH—GENERAL

##### Part I. General Administration

##### Subpart 3. Licensing and Certification

#### Chapter 67. Free-Standing Birth Centers

##### Subchapter A. General Provisions

#### §6701. Introduction

A. These regulations contain the minimum licensing standards for free-standing birth centers (FSBCs). Free-standing birth centers are established for the purpose of rendering birthing procedures to its clients outside of a traditional hospital.

B. The care and services to be provided by an FSBC shall include:

1. birth-related procedures;
2. criteria for admission to, continuation in, and transfer out of, the birth center;
3. medications as needed for clinical procedures rendered;
4. services necessary to provide for the physical and emotional well-being of the clients served;
5. established consultation, assessment of emergency conditions, and transfer as needed; and
6. organized administrative structure and support services.

C. Each entity that meets the definition of free-standing birth center shall submit an initial licensing application and the required fee to the department within 90 days of the promulgation of these initial rules, regulations, and licensing standards. If the entity is not licensed within 120 days after submission of its initial licensing application and fee, the entity shall cease operations until such time as it is licensed as a free-standing birth center by the department.

D. FSBCs that apply for their initial FSBC license or receive plan review approval for initial construction or major renovations, or change their geographic address after the effective date of the promulgation of this Rule, shall be required to comply with all of the provisions herein.

E. Recognized FSBCs in existence on the effective date of the promulgation of this rule, shall be exempt only from the provisions of §6701.D.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.21-2180.28.

**HISTORICAL NOTE:** Promulgated by the Department of Health, Bureau of Health Services and Financing, LR 47:

#### §6703. Definitions

**Active Labor**—contractions resulting in progressive effacement and dilation of the cervix.

**Administrator**—the person responsible for the on-site, daily implementation and supervision of the overall free-standing birth center's operation commensurate with the authority conferred by the governing body.

**Apgar Score**—an accepted and convenient method for reporting the status of the newborn infant immediately after birth and the response to resuscitation if it is needed.

**Board**—the Louisiana State Board of Medical Examiners (LSMBE).

**Certified Nurse Midwife (CNM)**—an advanced practice registered nurse educated in the disciplines of nursing and midwifery and certified according to a nationally recognized certifying body, such as the American College of Nurse-Midwives Certification Council, as approved by the Louisiana State Board of Nursing (LSBN) and who is authorized to manage the nurse-midwifery care of newborns and women in the antepartum, intrapartum, postpartum and/or gynecological periods pursuant to LAC 46:XLVII.4503.B.1. et seq.

**Cessation of Business**—center is non-operational and/or has stopped offering or providing services to the community.

**Change of Ownership (CHOW)**—the addition, substitution, or removal, whether by sale, transfer, lease gift, or otherwise, of a licensed health care provider subject to this rule by a person, corporation, or other entity, which results in a CHOW or change of controlling interest of assets or other equity interests of the licensed entity may constitute a CHOW of the licensed entity. An example of an action that constitutes a CHOW includes, but is not limited to, the leasing of the licensed entity.

**Client**—an individual who is receiving services from a licensed free-standing birth center (FSBC).

**Department**—the Louisiana Department of Health (LDH) or any of its sections, bureaus, offices or its contracted designee.

**Division of Administrative Law (DAL)**—the agency authorized to conduct fair hearings and take actions on appeals of departmental decisions as provided for in the Administrative Procedure Act, or its successor.

**Employed**—performance of a job or task for compensation, such as wages or a salary. An employed person may be one who is contracted or one who is hired for a staff position.

**Family**—individuals selected by the pregnant woman to be present and/or in attendance during her admission to the free-standing birth center.

**Free-Standing Birth Center (FSBC)**—a facility, place, center, agency, person, institution, corporation, partnership, unincorporated association, group, or other legal entity which



## SUMMARY OF WRITTEN COMMENTS

**Proposed Rule:** Adult Residential Care Providers – Licensing Standards  
**Public Hearing Date:** N/A  
**Docket No. :** N/A  
**Conducted By:** N/A

Written Comments Received From	Mode of Receipt	Summary of Comments
Sharla Aloisio Chief Executive Director Louisiana Assisted Living Association and Board of Directors	Email to Medicaid Policy	<p>LALA and its board of directors have determined a position of support for the proposed regulations, incorporating their comments, and without other significant change. Requests that the proposed adjustments are adopted and published as final regulations:</p> <ul style="list-style-type: none"> <li>• §6865. Staffing Requirements - Assisted Living Federation of America has changed to ARGENTUM.</li> <li>• Consider adding the following Alternate Use of Licensed Approved ARCP language:               <ul style="list-style-type: none"> <li>A. In a service area in which average annual occupancy is lower than 93 percent, an ARCP may elect to temporarily convert a number of units to an alternate use (e.g., adult day care).                   <ul style="list-style-type: none"> <li>1. The units may be converted for alternate use until the average annual occupancy in the service area exceeds 93 percent (based on the MSTAT report).</li> <li>2. The facility shall then either re-enroll the units as ARCP units within one year of receipt of notice from the department that the average annual occupancy in the service area exceeds 93 percent.</li> <li>3. The approval for units not re-enrolled by that time will be expired.</li> </ul> </li> <li>B. A facility is prohibited from adding units when alternately using units.</li> <li>C. A total conversion of all beds is prohibited.</li> </ul> </li> </ul>
Karen Contrenchis President LeadingAge Gulf States	Email to Health Standards Section	<p>Requests technical changes to §6865 and §6867 to correct the agency names for the State and National Associations.</p>



**From:** Christopher Vincent  
**Sent:** Monday, August 9, 2021 8:28 AM  
**To:** [sharla@lalaonline.org](mailto:sharla@lalaonline.org)  
**Cc:** Tasheka Dukes <[Tasheka.Dukes@LA.GOV](mailto:Tasheka.Dukes@LA.GOV)>; Cecile Castello <[Cecile.Castello@LA.GOV](mailto:Cecile.Castello@LA.GOV)>  
**Subject:** RE: LALA position/feedback to ARCP NOI published July 2021

Good Morning Sharla,

The FNR Alternative Use Rule was implemented to permit nursing homes who are under a licensing moratorium to place licensed beds into alternate use without losing the beds.

Here is an example of how a nursing home places beds in alternate use:

Nursing home A places a wing of beds in alternate use (beds 1-20 Wing A).

Wing A rooms 1-20 are then leased to a separately licensed rehab hospital for use as rehab beds. The rehab hospital provides staff and all essential services for any rehab patients cared for in the leased space which is now in alternate use.

If the rehabilitation hospital cancels the lease and ceases to provide services the nursing home may request to remove the licensed nursing home beds from alternate use and resume providing nursing home services.

If the space is used for another program (alternate use) such as Rehabilitation, Adult Day Care, Adult Day Health Care, the operator of the separate service is required to hold a license for that service.

At this time ARCPs are not impacted by the licensing moratorium and do not need to place licensed beds in alternate use. Currently, an ARCP may request to de-license a space in the building and lease the space for use by another provider (ADHC, ADC, etc.). The separate provider must meet all licensing regulations of the program they are operating at the leased location.

I hope this clarifies the FNR Alternate Use regulation. Is this what your group of providers is requesting to do?

Thank You,  
Christopher Vincent, BSN, RN  
Program Manager  
Health Standards Section  
(225) 342-6298



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**From:** Cynthia York <Cynthia.York@LA.GOV>

**Sent:** Tuesday, September 7, 2021 5:14 PM

**To:** sharla@lalaonline.org

**Cc:** Tasheka Dukes <Tasheka.Dukes@LA.GOV>; Kimberly Humbles <Kimberly.Humbles@LA.GOV>; Kimberly Sullivan <Kimberly.Sullivan@LA.GOV>; Veronica Dent <Veronica.Dent@LA.GOV>; Allen Enger (LDH) <Allen.Enger@la.gov>; Alisa Morris <Alisa.Morris@la.gov>; Cynthia York <Cynthia.York@LA.GOV>  
**Subject:** ARCP NOI

Ms. Aloisio,

Thank you for providing Health Standards Section with the correct name for the national organization: Argentum. We have updated our Notice of Intent document and anticipate that the final rule will reflect the correct name.

We appreciate your valuable input.

Best regards,

*Cynthia York*

Cynthia York, DNP, RN, MCPM, FRE  
Rulemaking Liaison/Policy/Procedure  
Fellow, NCSBN Institute of Regulatory Excellence  
Louisiana Department of Health / Health Standards Section  
Bienville Building / 628 North 4<sup>th</sup> Street  
Baton Rouge, LA 70802  
[Cynthia.york@la.gov](mailto:Cynthia.york@la.gov)  
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**From:** Cynthia York <Cynthia.York@LA.GOV>

**Sent:** Tuesday, September 7, 2021 5:07 PM

**To:** kcontrenchis@leadingagegulfstates.org

**Cc:** Tasheka Dukes <Tasheka.Dukes@LA.GOV>; Kimberly Humbles <Kimberly.Humbles@LA.GOV>; Kimberly Sullivan <Kimberly.Sullivan@LA.GOV>; Veronica Dent <Veronica.Dent@LA.GOV>; Allen Enger (LDH) <Allen.Enger@la.gov>; Alisa Morris <Alisa.Morris@la.gov>; Cynthia York <Cynthia.York@LA.GOV>

**Subject:** ARCP Notice of Intent

Ms. Contrenchis:

Thank you for providing Health Standards Section with the correct names for the national organizations: Argentum and LeadingAge. We have updated our Notice of Intent document and anticipate that the final rule will reflect the correct names.

We appreciate your valuable input.

Best regards,

*Cynthia York*

Cynthia York, DNP, RN, MCPM, FRE  
Rulemaking Liaison/Policy/Procedure  
Fellow, NCSBN Institute of Regulatory Excellence  
Louisiana Department of Health / Health Standards Section  
Bienville Building / 628 North 4<sup>th</sup> Street  
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**State of Louisiana**  
Louisiana Department of Health  
Office of the Secretary

September 10, 2021

**Via Statutorily Prescribed Email**

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

**From:** Dr. Courtney N. Phillips   
Secretary

**Re:** Second Report LAC 50:XXI.Chapters 161-169 – Home and Community-Based  
Services Waivers Residential Options Waivers

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Reimbursement to Home and Community-Based Services Waivers Residential Options Waivers, LAC 50:XXI.Chapters 161-169.

A Notice of Intent on the proposed amendments was published in the July 20, 2021 issue of the *Louisiana Register* (LR 47:986). No written comments were received and there was no request for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:968B-C was submitted.

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

Please contact Denise Boyd, at [denise.boyd@la.gov](mailto:denise.boyd@la.gov), if you have any questions or require additional information about this matter.

**Cc:** Julie Foster Hagen, Assistant Secretary, OCDD, LDH  
Brian Bennett, Medicaid Program Manager, LDH  
Veronica Dent, Medicaid Program Manager, LDH  
Bethany Blackson, Legislative Liaison, LDH  
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Free Standing Birth Center  
Licensing Standards**

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

~~It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 21-22. It is anticipated that \$12,744 will be expended in FY 21-22 for the state's administrative expense for promulgation of this proposed rule and the final rule.~~

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

~~It is anticipated that the implementation of this proposed rule will result in additional licensing fees collected, dependent upon the number of providers that may apply to the program.~~

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

~~In compliance with Act 332 of the 2019 Regular Session of the Louisiana Legislature, this proposed rule repeals the existing LAC 48:I. Chapter 67 governing the licensing of hospitals in its entirety as these provisions are incorporated elsewhere in the Louisiana Administrative Code and replaces it with provisions governing licensing of free standing birth centers. This proposed rule will benefit patients by providing for the safety, health, welfare, and well-being of persons receiving these services. It is anticipated that implementation of this proposed rule will have economic cost for free standing birth centers; however, the costs are indeterminable since there is no way to establish how many facilities will apply for licensure.~~

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

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

Tashoka Dukes, RN  
Deputy Assistant Secretary  
2107#054

Alan M. Boxberger  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health  
Bureau of Health Services Financing  
and  
Office for Citizens with Developmental Disabilities**

Home and Community-Based Services Waivers  
Residential Options Waiver  
(LAC 50:XXI.Chapters 161-169)

The Department of Health, Bureau of Health Services  
Financing and the Office for Citizens with Developmental

Disabilities propose to amend LAC 50:XXI.Chapters 161-169 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities (OCDD) propose to amend the provisions governing the Residential Options Waiver (ROW) in order to align the language and services streamlining process (i.e., services approval, tier waiver transition, billing/same services) in the administrative Rule with other home and community-based waivers in compliance with ROW program changes approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE  
Part XXI. Home and Community Based Services  
Waivers**

**Subpart 13. Residential Options Waiver  
Chapter 161. General Provisions**

**§16101. Introduction**

A. The Residential Options Waiver (ROW), a 1915(c) home and community-based services (HCBS) waiver, is designed to assist participants in leading healthy, independent and productive lives to the fullest extent possible and promote the full exercise of their rights as citizens of the state of Louisiana. The ROW is person-centered incorporating the participant's support needs and preferences with a goal of integrating the participant into their community. The ROW provides opportunities for eligible individuals with developmental disabilities to receive HCBS services that allow them to transition to and/or remain in the community. These individuals would otherwise require an intermediate care facility for individuals with intellectual disabilities (ICF/IID) level of care.

B. The Residential Options Waiver services are provided with the goal of promoting independence through strengthening the participant's capacity for self-care, self-sufficiency and community integration utilizing a wide array of services, supports and residential options. The ROW is person-centered incorporating the participant's support needs and preferences, while supporting the dignity, quality of life, and security with the goal of integrating the participant into the community.

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 for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2154 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1764 (December 2019), LR 47:

**§16103. Program Description**

A. ...

B. The ROW offers an alternative to institutional care with the objectives to:

1. promote independence for participants through the provision of services meeting the highest standards of quality and national best practices, while ensuring health and safety through a comprehensive system of participant safeguards;

2. offer an alternative to institutionalization and costly comprehensive services through the provision of an array of services and supports that promote community inclusion and independence by enhancing and not replacing existing informal networks; and

3. offer access to services which would protect the health and safety of the participant.

C. ROW services are accessed through a single point of entry in the human services district or authority. All waiver participants choose their support coordination and direct service provider agencies through the freedom of choice process.

1. The plan of care (POC) shall be developed using a person-centered process coordinated by the participant's support coordinator. The initial POC is developed during this person-centered planning process and approved by the human services district or authority. Annual reassessments may be approved by the support coordination agency supervisor as allowed by Office for Citizens with Developmental Disabilities (OCDD) policy.

D. ...

E. The total expenditures available for each waiver participant is established through an assessment of individual support needs and may not exceed the approved ICF/IID Inventory for Client and Agency Planning (ICAP) rate/ROW budget level established for that individual except as approved by the OCDD assistant secretary, deputy assistant secretary, or his/her designee to prevent institutionalization. ROW acuity/budget cap level(s) are based upon each participant's ICAP assessment tool results and may change as the participant's needs change.

1. When the department determines that it is necessary to adjust the ICF/IID ICAP rate, each waiver participant's annual service budget may be adjusted to ensure that the participant's total available expenditures do not exceed the approved ICAP rate. A reassessment of the participant's ICAP level will be conducted to determine the most appropriate support level.

2. The average participant's expenditures for all waiver services shall not exceed the average Medicaid expenditures for ICF/IID services.

3. Participants may exceed assigned ROW acuity/budget cap level(s) to access defined additional support needs to prevent institutionalization on a case by case basis according to policy and as approved by the OCDD assistant secretary or his/her designee.

4. If it is determined that the ROW can no longer meet the participant's health and safety and/or support the participant, the case management agency will conduct person centered discovery activities.

5. All Medicaid service options will be explored, including ICF/IID placement, based upon the assessed need.

F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services

Financing and the Office for Citizens with Developmental Disabilities, LR 41:2154 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1764 (December 2019), LR 47:

#### **§16104. Settings for Home and Community Based Services**

A. ROW participants are expected to be integrated in and have full access to the greater community while receiving services, to the same extent as individuals without disabilities. Providers shall meet the requirements of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) home and community-based setting requirements for home and community-based services (HCBS) waivers as delineated in LAC 50:XXI.901 or any superseding rule.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1764 (December 2019), amended LR 47:

#### **§16105. Participant Qualifications**

A. In order to qualify for Residential Options Waiver (ROW), individuals of all ages must meet all of the following criteria:

1. - 2. ...

3. be on the intellectual/developmental disabilities (IDD) request for services registry (RFSR), unless otherwise specified through programmatic allocation in §16107 of this Chapter;

4. meet the requirements for an ICF/IID level of care which requires active treatment for developmental disabilities under the supervision of a qualified developmental disabilities professional;

5. ...

6. have justification based on a uniform needs-based assessment and a person-centered planning discussion that the ROW is the OCDD waiver that will meet the needs of the individual;

7. be a resident of Louisiana;

8. be a citizen of the United States or a qualified alien; and

9. have assurance that health and welfare of the individual can be maintained in the community with the provision of the ROW services.

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, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2155 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2530 (December 2017), LR 45:1764 (December 2019), LR 47:

#### **§16106. Money Follows the Person Rebalancing Demonstration**

A. The Money Follows the Person (MFP) Rebalancing Demonstration is a federal demonstration grant awarded by the Centers for Medicare and Medicaid Services to the Department of Health. The MFP demonstration is a transition

program that targets individuals using qualified institutional services and moves them to home and community-based long-term care services. The MFP rebalancing demonstration will stop allocation of opportunities when the demonstration expires.

1. For the purposes of these provisions, a qualified institution is a nursing facility, hospital, or Medicaid enrolled intermediate care facility for individuals with intellectual disabilities (ICF/IID).

B. Individuals must meet the following criteria for participation in the MFP Rebalancing Demonstration.

1. Individuals with a developmental disability must:

a. occupy a licensed, approved Medicaid enrolled nursing facility, hospital or ICF/IID bed for at least three consecutive months; and

b. be Medicaid eligible, eligible for state developmental disability services, and meet an ICF/IID level of care.

2. ...

C. Individuals in the demonstration are not required to have a protected date on the developmental disabilities request for services registry (RFSR).

D. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2155 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:

#### **§16107. Programmatic Allocation of Waiver Opportunities**

A. The intellectual/developmental disabilities request for services registry, hereafter referred to as "the registry," shall be used to identify individuals with intellectual and/or developmental disabilities who are waiting for an OCDD waiver opportunity. Individuals who are found eligible for developmental disabilities services using standardized tools, and who request waiver services will be added to the registry. The request for services registry (RFSR) is arranged by urgency of need and date of application for developmentally disabled (DD) waiver services.

B. The ROW serves eligible individuals in the following populations and is based on the following priorities:

1. Priority 1. The one-time transition of persons eligible for developmental disability (DD) services in either OAAS Community Choices Waiver (CCW) or OAAS Adult Day Health Care (ADHC) Waiver to the ROW.

2. Priority 2. Individuals living at Pinecrest Supports and Services Center or in a publicly operated ICF/IID when it was transitioned to a private ICF/IID through a cooperative endeavor agreement (CEA facility), or their alternates. Alternates are defined as individuals living in a private ICF/IID who will give up the private ICF/IID bed to an individual living at Pinecrest or to an individual who was living in a publicly operated ICF/IID when it was transitioned to a private ICF/IID through a cooperative endeavor agreement. Individuals requesting to transition from Pinecrest are awarded a slot when one is requested and their health and safety can be assured in an OCDD waiver. This also applies to individuals who were residing in a state operated facility at the time the facility was privatized and became a CEA facility.

3. Priority 3. Individuals on the registry who have the highest level of need and the earliest registry date shall be notified in writing when a funded OCDD waiver opportunity is available and that he/she is next in line to be evaluated for a possible waiver assignment, and the ROW shall have justification based on a uniform needs-based assessment and a person-centered planning that the ROW is the OCDD waiver that will best meet the needs of the individual.

4. Priority 4. Individuals transitioning from ICF/IID facilities utilizing ROW conversion.

C. OCDD has the responsibility to monitor the utilization of ROW opportunities. At the discretion of OCDD, specifically allocated waiver opportunities may be reallocated to better meet the needs of citizens with developmental disabilities in the state of Louisiana.

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 for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2155 (October 2015), LR 42:62 (January 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2530 (December 2017), LR 45:1764 (December 2019), LR 47:

#### **§16109. Admission Denial or Discharge Criteria**

A. Admission to the ROW Program shall be denied if one of the following criteria is met.

1. ...

2. The individual does not meet the requirements for an ICF/IID level of care.

3. - 8. ...

B. Participants shall be discharged from the ROW if any of the following conditions are determined:

1. ...

2. loss of eligibility for an ICF/IID level of care;

3. - 5 ...

6. admission to an ICF/IID or nursing facility with the intent to stay and not to return to waiver services;

7. ...

8. the participant fails to cooperate in the eligibility renewal process or the implementation of the approved POC, or the responsibilities of the ROW participant;

9. continuity of stay for consideration of Medicaid eligibility under the special income criteria is interrupted as a result of the participant not receiving ROW services during a period of 30 consecutive days;

a. continuity of stay is not considered to be interrupted if the participant is admitted to a hospital, nursing facility, or ICF/IID.

i. Repealed.

b. the participant shall be discharged from the ROW if the treating physician documents that the institutional stay will exceed 90 days; or

10. ...

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 for Citizens with Developmental Disabilities, LR 33:2443 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental



Disabilities, LR 41:2156 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1765 (December 2019), LR 47:

## **Chapter 163. Covered Services**

### **§16301. Assistive Technology and Specialized Medical Equipment and Supplies**

A. Assistive technology and specialized medical equipment and supplies (AT/SMES) service includes providing specialized devices, controls, or appliances which enable a participant to increase his/her ability to perform activities of daily living, ensure safety, and/or to perceive, control, and communicate within his/her environment.

1. This service also includes items that meet at least one of the following criteria:

- a. items that are necessary for life support;
- b. items that are necessary to address physical conditions, along with ancillary supplies;
- c. address physical conditions;
- d. items that will increase, maintain, or improve ability of the participant to function more independently in the home and/or community; and
- e. equipment necessary to the proper functioning of such items.

2. This service also includes medically necessary durable and non-durable equipment not available under the Medicaid State Plan and repairs to such items and equipment necessary to increase/maintain the independence and well-being of the participant.

a. All equipment, accessories and supplies must meet all applicable manufacture, design and installation requirements.

b. The services under the Residential Options Waiver are limited to additional services not otherwise covered under the Medicaid State Plan.

3. The services are limited to additional services not otherwise covered under the state plan, including EPSDT, but consistent with waiver objectives of avoiding institutionalization.

4. - 5. Repealed.

B. AT/SMES services provided through the ROW include the following services:

1. the evaluation of assistive technology needs of a participant including a functional evaluation of the impact of the provision of appropriate assistive technology and appropriate services to the participant in the customary environment of the participant;

2. services consisting of selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

3. coordination of necessary therapies, interventions or services with assistive technology devices;

4. ...

5. training or technical assistance, on the use for the participant, or where appropriate, family members, guardians, advocates, authorized representatives of the participant, professionals, or others;

6. all service contracts and warranties included in the purchase of the item by the manufacturer;

7. equipment or device repair and replacement of batteries and other items that contribute to ongoing maintenance of the equipment or device;

a. separate payment will be made for repairs after expiration of the warranty only when it is determined to be cost effective; and

8. services consisting of purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices for participants.

C. - D. ...

#### **E. Service Exclusions**

1. Assistive technology devices and specialized equipment and supplies that are of general utility or maintenance and items that are not of direct medical or remedial benefit to the participant are excluded from coverage.

2. Any equipment, device, appliance or supply that is covered and has been approved under the Medicaid State Plan is excluded from coverage.

3. For adults over the age of 20 years, specialized chairs, whether mobile or travel are not covered.

F. Provider Participation Requirements. Providers of AT/SMES services must meet the following participation requirements. The provider must:

1. be enrolled in the Medicaid Program;
2. provide documentation on manufacturer's letterhead that the agency listed on the Louisiana Medicaid Enrollment Form and Addendum (PE-50) is:

a. authorized to sell and install assistive technology, specialized medical equipment and supplies, or devices for assistance with activities of daily living; and

b. has training and experience with the application, use fitting and repair of the equipment or devices they propose to sell or repair; and

3. Upon completion of the work and prior to payment, the provider shall give the participant a certificate of warranty for all labor and installation and all warranty certificates.

a. 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 for Citizens with Developmental Disabilities, LR 33:2443 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2156 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

### **§16303. Community Living Supports**

A. Community living supports (CLS) are provided to a participant in his/her own home and in the community to achieve and/or to maintain the outcomes of increased independence, productivity, and enhanced family functioning, to provide relief of the caregiver, and to provide for inclusion in the community. Community living supports may be a self-directed service.

B. Community living supports focus on the achievement of one or more goals as indicated in the participant's approved plan of care by incorporating teaching and support strategies. Supports provided are related to the acquisition,

improvement, and maintenance of independence, autonomy and adaptive skills. These skills include:

1. self-help skills;
2. socialization skills;
3. cognitive and communication skills; and
4. ...

C. Place of Service. CLS services are furnished to adults and children who live in a home that is leased or owned by the participant or his/her family. Services may be provided in the home or community, with the place of residence as the primary setting.

D. Community living supports may be shared by up to three participants who may or may not live together, and who have a common direct service provider agency. In order for CLS services to be shared, the following conditions must be met.

1. An agreement must be reached among all of the involved participants, or their legal guardians, regarding the provisions of shared CLS services. If the person has a legal guardian, their approval must also be obtained.
2. The health and welfare must be assured for each participant.
3. Each participant's plan of care must reflect shared services and include the shared rate for the service indicated.
4. A shared rate must be billed.
5. The cost of transportation is built in to the community living services rate and must be provided when integral to community living services.

E. Service Exclusions

1. Community living supports staff are not allowed to sleep during billable hours of community living supports.
2. Payment will not be made for routine care and support that is normally provided by the participant's family or for services provided to a minor by the child's parent or step-parent or by a participant's spouse.
3. ...
4. The participant and community living supports staff may not live in the same place of residence.
5. Payment does not include room and board or the maintenance, upkeep, and improvement of the provider's or family's residence.
6. Community living supports may not be provided in a licensed respite care facility.
7. Community living supports services are not available to participants receiving any of the following services:
  - a. - c. ...
  - d. monitored in-home caregiving (MIHC).
8. Community living supports may not be billed at the same time on the same day as:
  - a. ...
  - b. prevocational services;
  - c. ...
  - d. respite care services-out of home;
  - e. transportation-community access;
  - f. monitored in-home caregiving (MIHC); or
  - g. adult day health care.
9. Payment will not be made for services provided by a relative who is:
  - a. parent(s) of a minor child;

b. legal guardian of an adult or child with developmental disabilities;

c. spouse of or legally responsible adult for the participant; or

d. power of attorney, curator, or authorized responsible representative for the waiver participant.

F. Provider Qualifications. CLS providers must be licensed by the Department of Health as a home and community-based services provider and meet the module requirements for personal care attendant in LAC 48:I.Chapter 50.

1. Family members who provide CLS services must meet the same standards as providers who are unrelated to the participant.

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 for Citizens with Developmental Disabilities, LR 33:2443 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2157 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1765 (December 2019), LR 47:

**§16305. Companion Care**

A. Companion care services provide supports to assist the participant in achieving and/or maintaining increased independence, productivity and community inclusion as identified in the participant's plan of care. These services are designed for individuals who live independently and can manage their own household with limited supports. The companion provides personal care and supportive services to a participant who resides as a roommate with his/her caregiver. This service includes:

1. - 2. ...

B. Companion care services can be arranged by licensed providers who hire companions. The participant must be able to self-direct services to companion. The companion is a principal care provider who is at least 18 years of age, who lives with the participant as a roommate, and provides services in the participant's home. The companion is a contracted employee of the provider agency and is paid as such by the provider.

C. Provider Responsibilities

1. The provider organization shall develop a written agreement that defines all of the shared responsibilities between the companion and the participant. This agreement becomes a part of the participant's plan of care. The written agreement shall include, but is not limited to:

- a. - c. ...

2. Revisions to this agreement must be facilitated by the provider and approved as part of the participant's plan of care following the same process as would any revision to a plan of care. Revisions can be initiated by the participant, the companion, the provider, or a member of the participant's support team.

3. The provider is responsible for performing the following functions which are included in the daily rate:

- a. ...

b. conducting an initial inspection of the participant's home with on-going periodic inspections of a frequency determined by the provider;

c. making contact with the companion at a minimum of once per week, or more often as specified in the participant's plan of care; and

d. providing 24-hour oversight, back-up staff, and companion supervision.

4. ...

D. Responsibilities of the companion include:

1. providing assistance with activities of daily living (ADLs);

a. - b. Repealed.

2. community integration;

3. providing transportation;

4. coordinating and assisting as needed with transportation to medical/therapy appointments;

5. participating in and following the participants plan of care and any support plans;

6. maintaining documentation/records in accordance with state and provider requirements;

7. being available in accordance with a pre-arranged time schedule as outlined in the participant's plan of care;

8. purchasing own personal items and food; and

9. being available 24 hours a day (by phone contact) to the participant to provide supports on short notice as a need arises.

E. Service Limits

1. The provider must provide relief staff for scheduled and unscheduled absences, available for up to 360 hours (15 days) per plan of care year. The companion care provider's rate includes funding for relief staff for scheduled and unscheduled absences.

F. Service Exclusions

1. Companion care is not available to individuals receiving the following services:

a. - d. ...

e. monitored in-home caregiving (MIHC).

2. Companion care services are not available to participants under the age of 18.

3. Payment will not be made for services provided by a relative who is a:

a. parent(s) of a minor child;

b. legal guardian of an adult or child with developmental disabilities; or

c. spouse of the participant.

4. Payment does not include room and board or maintenance, upkeep, and improvement of the participants or provider's property.

5. transportation is billed by the vocational provider.

G. Provider Qualifications. Providers must be licensed by the Department of Health as a home and community-based services provider and meet the module requirements for personal care attendant in LAC 48:I.Chapter 50.

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

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Office for Citizens with Developmental Disabilities, LR 45:1765 (December 2019), LR 47:

#### **§16307. Day Habilitation Services**

A. Day habilitation services are aimed at developing activities and/or skills acquisition to support or further community integration opportunities outside of a participant's home that promote independence and autonomy and assist him/her in developing a full life in his/her community. Services should focus on habilitation activities that enable the participant to attain maximum skills based on his/her valued outcomes. These services should be provided in a variety of community venues, and these venues and services should routinely correspond with the context of the skill acquisition activity to enhance the habilitation activities. Overarching goals of the program shall include regular community inclusion and the opportunity to build towards maximum. The primary focus of day habilitation services is acquisition of new skills or maintenance of existing skills based on individualized preferences and goals.

1. The skill acquisition and maintenance activities should include formal strategies for teaching the personalized skills and include the intended outcome for the participant.

2. Personalized progress for the skill acquisition and maintenance activities should be routinely reviewed and evaluated, with revisions made as necessary to promote continued skill acquisition.

3. As a participant develops new skills, his/her training should move along a continuum of habilitation services offered toward greater independence and self-reliance.

B. Day habilitation services may serve to reinforce skills or lessons taught in school, therapy, or other settings. Day habilitation services shall:

1. focus on enabling the participant to attain his/her maximum skills;

2. be coordinated with any physical, occupational, or speech therapies listed in the participant's plan of care; and

3. be furnished on a regularly scheduled basis and limited to no more than eight hours a day, five days per week.

a. Services are based on a 15 minute unit of service and on time spent at the service site by the participant.

b. Services shall not exceed 32 units of service on any given day or 160 units in any given week in a plan of care.

c. Any time less than 15 minutes of service is not billable or payable.

d. No rounding up of units is allowed.

4. - 4.d.Repealed.

C. The day habilitation provider is responsible for all transportation between day habilitation sites.

1. Transportation is only provided on the day that a day habilitation service is provided.

2. Transportation services are offered and billable as a component of day habilitation. Transportation may be provided to and/or from the participant's residence or a location agreed upon by the participant or authorized representative.

D. Participants may receive more than one type of vocational or habilitative service per day as long as the service and billing criteria are followed and as long as requirements for the minimum time spent on site are adhered to.

E. Service Exclusions

1. Time spent in transportation between the participant's residence/location and the day habilitation site is

not to be included in the total number of day habilitation service hours per day, except when the transportation is for the purpose of travel training.

a. Travel training for the purpose of teaching the participant to use transportation services may be included in determining the total number of service hours provided per day. Travel training must be included in the participants plan of care.

2. ...

3. Day habilitation services cannot be billed for at the same time on the same day as:

- a. community living supports;
- b. professional services, except when there are direct contacts needed in the development of a support plan;
- c. respite—out of home;
- d. adult day health care;
- e. monitored in-home caregiving (MIHC);
- f. prevocational services; or
- g. supported employment.

F. Provider Qualifications. Providers must be licensed by the Department of Health as a home and community-based services provider and meet the module requirements for adult day care in LAC 48:I.Chapter 50.

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

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#### **§16309. Dental Services**

A. Dental services are available to adult participants over the age of 21 as of component of the ROW. Covered dental services include:

1. adult diagnostic services (radiographs, complete series including bitewing);
2. ...
3. prophylaxis, new and patient of record adult (cleanings).

#### **B. Service Exclusions**

1. ROW dental services are not available to children (up to 21 years of age). Children access dental services through EPSDT.

2. All available Medicaid State Plan services must first be exhausted prior to accessing ROW dental services.

C. Provider Qualifications. Providers must have a current, valid license to provide dental services from the Louisiana State Board of Dentistry for the specific dental services in all specialty areas provided to the participant.

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 for Citizens with Developmental Disabilities, LR 33:2445 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2159 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:

#### **§16311. Environmental Accessibility Adaptations**

A. Environmental accessibility adaptations are physical adaptations to the participant's home or vehicle which are necessary to ensure health, welfare, and safety of the participant, or which enable the participant to function with greater independence, without which the participant would require additional supports or institutionalization. Environmental adaptations must be specified in the participant's plan of care.

1. ...

B. Environmental adaptation services to the home and vehicle include the following:

1. performance of necessary assessments to determine the type(s) of modifications that are needed;
2. training the participant and the provider in the use and maintenance of the environmental adaptation(s);
3. repair of equipment and/or devices, including battery purchases for vehicle lifts and other reoccurring replacement items that contribute to the ongoing maintenance of the approved adaptation(s); and
4. standard manufacturer provided service contracts and warranties.

C. Home adaptations which pertain to modifications that are made to a participant's primary residence. Such adaptations to the home may include bathroom modifications, ramps, or other adaptations to make the home accessible to the participant.

1. The service must be for a specific approved adaptation.

2. The service may include the installation of ramps and grab-bars, widening of doorways, modification of bathroom facilities, or installation of specialized electric and plumbing systems which are necessary to accommodate the medical equipment and supplies which are necessary for the welfare of the participant.

3. - 4. Repealed.

D. Modifications may be applied to rental or leased property only with the written approval of the landlord and approval of OCDD.

1. - 2. Repealed.

E. All environmental accessibility adaptations to home and to a vehicle must meet all applicable standards of manufacture, design, and installation.

#### **F. Service Exclusions for Home Adaptations**

1. ...

2. Home modifications shall not be furnished to adapt living arrangements that are owned or leased by paid caregivers or providers of waiver services.

3. Home modifications may not include modifications which add to the total square footage of the home, except when the additional square footage is necessary to make the required adaptations function appropriately.

EXAMPLE: if a bathroom is very small and a modification cannot be done without increasing the total square footage, this would be considered as an approvable cost.

a. When new construction or remodeling is a component of the service, payment for the service is to only cover the difference between the cost of typical construction and the cost of specialized construction.

4. Home modifications may not include modifications to the home which are of general utility and not of direct medical or remedial benefit to the participant, including, but not limited to:

a. - g. ...

5. Home modification funds may not be used for service warranties and contracts above those provided by the manufacturer at the time of purchase (e.g., extended warranties, extended service contracts).

G. Vehicle adaptations pertain to modifications to a vehicle that is the waiver participant's primary means of transportation in order to accommodate his/her special needs.

1. Such adaptations to the vehicle may include a lift, or other adaptations, to make the vehicle accessible to the participant or for the participant to drive.

2. The service must be for a specific approved adaptation.

#### H. Service Exclusions for Vehicle Adaptations

1. Payment will not be made to:

a. ...

b. purchase or lease of a vehicle.

2. Vehicle modification funds may not be used for modifications which are of general utility and are not of direct medical or remedial benefit to the participant.

3. Vehicle modification funds may not be used for regularly scheduled upkeep and maintenance of a vehicle, except upkeep and maintenance of the modifications.

4. ...

5. Vehicle modification funds may not be used for service warranties and contracts above those provided by the manufacturer at the time of purchase (e.g., extended warranties, extended service contracts).

I. - I.4. ...

J. Provider Qualifications. In order to participate in the Medicaid Program, providers must meet the following qualifications.

1. Home Adaptations. Providers of environmental accessibility adaptations for the home must:

a. be registered through the State Licensing Board for Contractors as a home improvement contractor. The provider must have a current license from the State Licensing Board for Contractors for any of the following building trade classifications:

i. general contractor;

ii. home improvement; or

iii. residential building; or

b. If a current Louisiana Medicaid provider of durable medical equipment, have documentation from the manufacturing company (on its letterhead) that confirms that the provider is an authorized distributor of a specific product that attaches to a building. The letter must specify the product and state that the provider has been trained on its installation.

2. Vehicle Adaptations. Providers of environmental accessibility adaptations to vehicles must be licensed by the Louisiana Motor Vehicle Commission as a specialty vehicle dealer and accredited by the National Mobility Equipment Dealers Association under the Structural Vehicle Modifier category.

3. All environmental adaptations providers must comply with all applicable local (city or parish) occupational license(s).

4. All environmental adaptation providers, as well as the person performing the service (i.e., building contractors, plumbers, electricians, engineers, etc.), must meet any state or local requirements for licensure or certification. When state and local building or housing code standards are applicable,

modifications to the home shall meet such standards, and all services shall be provided in accordance with applicable State or local requirements.

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

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#### §16313. Host Home

A. Host home services are personal care and supportive services provided to a participant who lives in a private home with a family who is not the participant's parent, legal representative, or spouse. Host home families are a stand-alone family living arrangement in which the principle caregiver in the host home assumes the direct responsibility for the participant's physical, social, and emotional well-being and growth in a family environment. Host home services are to take into account compatibility with the host home family members, including age, support needs, and privacy needs.

B. Host home services include assistance with:

1. personal care, assistance with the activities of daily living and adaptive living needs;

2. leisure activities, assistance to develop leisure interests and daily activities in the home setting;

3. social development/family inclusion, assistance to develop relationships with other members of the household; and

4. community inclusion supports in accessing community services and activities and pursuing and developing recreational and social interests outside the home.

5. Repealed.

**NOTE:** Natural supports are also encouraged and supported when possible. Supports are to be consistent with the participant's skill level, goals, and interests.

C. Host home provider agencies oversee and monitor the host home contractor to ensure the availability, quality, and continuity of host home services. Host home provider agencies are responsible for the following functions:

1. arranging, training, and overseeing host home services (host home family);

2. making an initial inspection and periodic inspections of the host home and upon any significant changes in the host family unit or significant events which may impact the participant;

3. having 24-hour responsibility over host home services to the participant, which includes back-up staffing

for scheduled and unscheduled absences of the host home family for up to 360 hours (15 days) as authorized by the participant's plan of care; and

4. providing relief staffing in the participant's home or in another host home family's home.

D. Host home contractors are responsible for:

1. attending the participant's plan of care meeting and participating, including providing information needed in the development of the plan;

2. following all aspects of the participant's plan of care and any support plans;

3. maintaining the participant's documentation;

4. assisting the participant in attending appointments (i.e., medical, therapy, etc.) and undergoing any specialized training deemed necessary by the provider agency, or required by the department, to provide supports in the host home setting;

5. following all requirements for staff as in any other waiver service including immediately reporting to the department and applicable authorities any major issues or concerns related to the participant's safety and well-being; and

6. providing transportation as would a natural family member.

E. Host home contractors who serve children are required to provide daily supports and supervision on a 24-hour basis.

1. If the participant is a child, the host home family is to provide the supports required to meet the needs of a child as any family would for a minor child.

2. Support needs are based on the child's age, capabilities, health, and special needs.

3. A host home family can provide compensated supports for up to two participants, regardless of the funding source.

F. - H. ...

I. Service Exclusions

1. ...

2. Payment will not be made for the following:

a. respite care services-out of home;

b. shared living/shared living conversion;

c. community living supports;

d. companion care;

e. monitored in-home caregiving (MIHC);

f. transportation-community access; or

g. one-time transition services.

3. ...

4. Payment will not be made for services provided by a relative who is a:

a. parent(s) of a minor child;

b. legal guardian of an adult or child with developmental disabilities;

c. parent(s) for an adult child, regardless of whether or not the adult child has been interdicted; or

d. spouse of the participant.

5. Children eligible for Title IV-E services are not eligible for host home services.

6. Payment does not include room and board or maintenance, upkeep, or improvement of the host home family's residence.

7. Environmental adaptations are not available to participants receiving host home services since the

participant's place of residence is owned or leased by the host home family.

J. Provider Qualifications

1. Home host service provider agencies must meet the following qualifications:

a. - b. ...

c. screen, train, oversee and provide technical assistance to the host home family in accordance with OCDD requirements, including the coordination of an array of medical, behavioral and other professional services geared to persons with developmental disabilities (DD); and

d. provide on-going assistance to the host home family so that all HCBS waiver health and safety assurances, monitoring, and critical incident reporting requirements are met.

2. Agencies serving children must be licensed by the Department of Children and Family Services as a Class "A" Child Placing Agency under the Specialized Provider Licensing Act (R.S. 46:1401-46:1430), LAC 67:V.Chapter 73.

3. Agencies serving adults must be licensed by the Department of Health as a home and community-based services provider and meet the module requirements for substitute family care in LAC 48:I.Chapter 50.

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

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#### **§16317. Nursing Services**

A. Nursing services are medically necessary services ordered by a physician and provided by a licensed registered nurse or a licensed practical nurse under the supervision of a registered nurse, within the scope of the State's Nurse Practice Act. Nursing services provided in the ROW are an extension of nursing services provided through the Home Health Program covered under the Medicaid State Plan.

1. Nursing services must be included in the participant's plan of care and must have the following:

a. physician's order,

b. physician's letter of medical necessity,

c. Form 90-L,

d. Form 485,

e. individual nursing service plan,

f. summary of medical history, and

g. skilled nursing checklist.

2. The participant's nurse must submit updates every 60 days and include any changes to the participant's needs and/or physician's orders.

B. Consultations include assessments, health related training/education for the participant and the participant's caregivers, and healthcare needs related to prevention and primary care activities.

1. Assessment services are offered on an individualized basis only and must be performed by a registered nurse

2. ...

3. Health related training and education service is the only nursing procedure which can be provided to more than one participant simultaneously.

**C. Service Limitations**

1. Services are based on 15-minute units of service.

**D. Service Requirements**

1. Nursing services are secondary to EPSDT services for participants under the age of 21 years. Participants under the age of 21 have access to nursing services (home health and extended care) under the Medicaid State Plan.

2. Adults have access only to home health nursing services under the Medicaid State Plan. Participants must access and exhaust all available Medicaid State Plan services prior to accessing ROW nursing services.

**E. Provider Qualifications**

1. In order to participate in the Medicaid Program, a provider agency must possess a current, valid license as a home health agency under R.S. 40:2116.31–40:2116.40 as verified by the LDH Health Standards Section; or

2. If under the ROW shared living conversion model, a provider agency must be licensed by the Department of Health as a home and community-based services provider and meet the module requirements for supervised independent living-conversion in LAC 48:I.Chapter 50.

2.a - 4.b. Repealed.

**E. Staffing Requirements**

1. Nursing services shall be provided by individuals with either a current, valid license as a registered nurse from the State Board of Nursing or a current, valid license as a practical nurse from the Board of Practical Nurse Examiners.

2. Nurses must have one-year experience serving persons with developmental disabilities. Experience may include any of the following:

a. full-time experience gained in advanced and accredited training programs, (i.e., masters or residency level training programs) which includes treatment services to persons with a developmental disability;

b. paid, full-time nursing experience in specialized service/treatment settings for persons with a developmental disability (i.e., intermediate care facilities for persons with a developmental disability);

c. paid, full-time nursing experience in multi-disciplinary programs for persons with a developmental disability (i.e., mental health treatment programs for persons with dual diagnosis - mental illness and a developmental disability); or

d. paid, full-time nursing experience in specialized educational, vocational, and therapeutic programs or settings for persons with a developmental disability (i.e., school special education program).

3. Two years of part-time experience (minimum of 20 hours per week) may be substituted for one year of full-time experience.

4. The following activities do not qualify for the required experience:

a. volunteer nursing experience; or

b. experience gained by caring for a relative or friend with developmental disabilities.

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

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Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2161 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:

**§16319. One-Time Transitional Services**

A. One-time transitional services are non-reoccurring set-up expenses to assist a participant who is moving from an institutional setting to his or her own home. The participant's support coordinator assists in accessing funds and making arrangements in preparation for moving into the residence.

B. One-time transitional services may be accessed for the following:

1. non-refundable security deposit;

2. utility deposits (set-up/deposit fee for telephone service);

3. essential furnishings to establish basic living arrangements, including:

a. bedroom furniture;

b. living room furniture;

c. tables and chairs;

d. window blinds; and

e. kitchen items (i.e., food preparation items, eating utensils, etc.);

4. moving expenses; and

5. health and safety assurances (i.e., pest eradication, one-time cleaning prior to occupancy, etc.).

6. - 6.b.Repealed.

**C. Service Limits**

1. There is a one-time, lifetime maximum services cap of \$3,000 per participant.

2. Service expenditures will be prior authorized and tracked by the prior authorization contractor.

**D. Service Exclusions**

1. One-time transitional services may not be used to pay for the following:

a. housing, rent, or refundable security deposits; or  
**NOTE:** Non-refundable security deposits are not to include rental payments.

1.b. - 3....

E. The Office for Citizens with Developmental Disabilities shall be the entity responsible for coordinating the delivery of one time transitional services. Providers must have a BHSF (Medicaid) provider enrollment agreement as a transition support provider as verified by Department of Health (LDH) Health Standards Section.

**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 for Citizens with Developmental Disabilities, LR 33:2449 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2162 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1766 (December 2019), LR 47:

**§16321. Personal Emergency Response System (PERS)**

A. Personal emergency response system (PERS) service is an electronic device connected to the participant's phone that enables him or her to secure help in an emergency. The service also includes an option in which the participant would wear a portable help button. The device is programmed to emit a signal to the PERS response center where trained



professionals respond to the participant's emergency situation.

B. Participant Qualifications. PERS service is most appropriate for participants who:

1. are able to identify when they are in an emergency situation and then able to activate the system requesting assistance; and

2. are unable to summon assistance by dialing 911 or other emergency services available to the general public.

3. Repealed.

C. Coverage of the PERS is limited to the rental of the electronic device. PERS services shall include the cost of maintenance and training the participant to use the equipment.

D. Service Exclusions

1. ...

2. PERS services are not available to participants who receive 24-hour direct care supports.

E. Provider Qualifications

1. ...

2. Providers must comply with all applicable federal, state, county (parish), and local laws and regulations.

3. Providers must meet manufacturers specifications, response requirements, maintenance records, and enrollee education.

4. The provider's response center shall be staffed by trained professionals.

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 for Citizens with Developmental Disabilities, LR 33:2249 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2162 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:

### **§16323. Prevocational Services**

A. Prevocational services are activities designed to assist a participant in acquiring and maintaining basic work-related skills necessary to acquire and retain competitive employment. Overall goals of the program include regular community inclusion and development of work skills and habits to improve the employability of the participant.

B. Prevocational services should be offered that engage workers in real and simulated employment tasks to determine vocational potential. Services focus on teaching concepts and skills, such as following directions, attending to tasks, task completion, problem solving, and job safety skills. All prevocational services are to be reflective of the participant's plan of care and directed toward habilitation rather than teaching a specific job skill.

1. The primary focus of prevocational services is the acquisition of employment related skills based on the participant's vocational preferences and goals.

2. Activities associated with prevocational services should include formal strategies for teaching the skills and the intended outcome for the participant.

3. Personalized progress for the activities should be routinely reviewed and evaluated with revisions made as necessary.

4. As an Employment First state, the state's strategy to facilitate participant transition from prevocational services to supported employment and/or employment in the participant's occupation of choice includes individually identifying persons receiving prevocational services and targets them for transition to integrated employment opportunities.

- a. This is accomplished through a revised person-centered process prominently featuring the values and principles of the state's Employment First initiative.

- b. As part of this implementation, the support team must clearly identify integrated community-based vocational goals, action steps, and timelines. This is reviewed on at least a quarterly basis and revised as needed.

- c. Success is measured by the individual's transition to an integrated employment setting in addition to the state meeting national core indicator integrated employment targets.

C. Prevocational services are provided to participants who are working or will be able to work in a paid work setting.

1. Participants need intensive ongoing support to perform in a paid work setting because of their disabilities.

2. In the event participants are compensated in the prevocational services, pay must be in accordance with the United States Fair Labor Standards Act of 1985.

D. Individual goals are identified and included in the participant's plan of care. These goals are re-assessed at least quarterly, or more often as needed, and revised as appropriate.

1. During the person-centered planning process, support coordinators identify various types of activities the participant enjoys participating in or would like to participate in given personal preferences and goals.

- a. These activities are included in the participant's plan of care and monitored to ensure that the participant has the opportunity to participate.

- b. These activities are to include formal strategies for teaching the skills and the intended outcome for the participant. Personalized progress for the activities should be routinely reviewed and evaluated with revisions made as necessary.

2. Support coordinators are to monitor and ensure that meaningful activities are occurring and that the participant is not being exploited.

3. Support coordinators are required to visit the participant at the prevocational site to ensure that the participant is participating in meaningful activities, is satisfied with services, and is free from abuse/neglect. This is documented in the Case Management Information System.

E. The prevocational provider is responsible for all transportation between prevocational sites. All transportation costs are included in the reimbursement rate for prevocational services. The participant must be present to receive this service. Transportation may be provided

between the participant's residence, or other location as agreed upon by the participant or authorized representative, and the prevocational site. The participant's transportation needs shall be documented in the plan of care.

#### F. Service Limitations

1. Services shall be limited to no more than eight hours a day, five days per week, based on a 15-minute unit of service. The 15-minute units of services must be spent at the service site by the participant.

a. Any time less than 15 minutes of service is not billable or payable.

b. No rounding up of units of service is allowed.

2. Prevocational services are not available to individuals who are otherwise eligible to participate in special education or related services programs as defined under Sections 602(16) and (17) of the Education of the Handicapped Act, through a local educational agency, or in vocational rehabilitation services through a program funded under Section 110 of the Rehabilitation Act of 1973.

3. Prevocational services cannot be billed for at the same time of the day as the following:

- a. community living supports;
- b. professional services, except when there are direct contacts needed in the development of a support plan;
- c. respite—out of home;
- d. adult day healthcare;
- e. monitored-in-home caregiving (MIHC);
- f. day habilitation services; or
- g. supported employment.

4. Transportation is only provided on the day that a prevocational service is provided.

a. Time spent in transportation between the participant's residence/location and the prevocational site is not to be included in the total number of prevocational service hours per day, except when the transportation is for the purpose of travel training. Travel training must be included in the participant's plan of care.

b. ...

c. Transportation-community access services shall not be used for transportation to or from any prevocational services

#### G. Restrictions

1. Participants receiving prevocational services may also receive day habilitation or individualized supported employment services, but these services cannot be provided during the same time.

2. Prevocational services are expected to be time limited to four years after which time the participant should be prepared for competitive employment in the community. This four-year time frame may be extended if needed.

3. If a participant is compensated, compensation must be less than 50 percent of minimum wage and must be in accordance with the United States Department of Labor's Fair Labor Standards Act. If a participant is paid above 50 percent of minimum wage, there must be a review every six months to determine the suitability of continuing prevocational services or changing vocational services to supported employment.

H. Provider Qualifications. Providers must be licensed by the Department of Health as a home and community-based services provider and meet the module requirements for adult day care in LAC 48:II. Chapter 50.

**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 for Citizens with Developmental Disabilities, LR 33:2450 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2162 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1766 (December 2019), LR 47:

#### §16325. Professional Services

A. Professional services are direct services to participants based on the participant's need, which assist the participant, unpaid caregivers, and/or paid caregivers in carrying out the participant's approved plan and which are necessary to improve the participant's independence and inclusion in his/her community. The participant must be present in order for the professional to bill for services. Professional services include nutritional services, speech therapy, occupational therapy, physical therapy, social work, and psychological services. All services are to be included in the participant's plan of care. The specific service provided to a participant must be within the professional's area of specialty and licensing.

B. Professional services include services provided by the following licensed professionals:

1. - 6. ...

C. Professional services can include:

1. assessments and/or re-assessments specific to the area of specialty with the goal of identifying status and developing recommendations, treatment, and follow-up;

2. providing training to the participant, family, and caregivers with the goal of increased skill acquisition and proficiency;

3. intervening in a crisis situation with the goal of stabilizing and addressing issues related to the cause(s) of the crisis. Activities may include development of support plan(s), training, documentation strategies, counseling, on-call supports; back-up crisis supports, on-going monitoring, and intervention;

4. provide consultative services and recommendations as the need arises;

5. providing information to the participant, family, and caregivers, along with other support team members, to assist in planning, developing, and implementing a participant's plan of care;

6. providing training and counseling services for natural supports and caregivers in a home setting with the goal of developing and maintaining healthy, stable relationships;

a. ...

b. services are intended to maximize the emotional and social adjustment and well-being of the individual, family, and caregiver;

7. providing nutritional services, including dietary evaluation and consultation with individuals or their care provider;

a. services are intended to maximize the individual's nutritional health;

8. providing therapy to the participant necessary to the development of critical skills; and

9. assistance in increasing independence, participation, and productivity in the participant's home, work, and/or community environments.

\* \* \*

#### D. Service Exclusions

1. Private insurance must be billed and exhausted prior to accessing waiver funds. Professional services may only be furnished and reimbursed through ROW when the services are medically necessary, or have habilitative or remedial benefit to the participant.

2. Children must access and exhaust services through the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program prior to accessing waiver funds.

E. Provider Qualifications. The provider of professional services must be a Medicaid-enrolled provider. Each professional must possess a current valid Louisiana license to practice in his/her field and have at least one year of experience post licensure in his/her area of expertise.

1. Enrollment of individual practitioners. Individual practitioners who enroll as providers of professional services must:

a. ...  
b. have a minimum of one year experience delivering services to persons with developmental disabilities.

1.c. - 2. ...

a. The following provider agencies may enroll to provide professional services:

i. - ii. ...  
iii. a supervised independent living agency licensed by the department to provide shared living services;  
iv. a substitute family care agency licensed by the department to provide host home services; or  
v. a federally qualified health center (U.S. Department of Health and Human Services, Health Resources and Services Administration (HRSA) grant recipient or Clinical Laboratory Improvement Amendments (CLIA) certificate holder).

b. - c. ...

3. All professionals delivering professional services must meet the required one year of service delivery experience as defined by the following:

a. full-time experience gained in advanced and accredited training programs (i.e. master's or residency level training programs), which includes treatment services for persons with a developmental disability;

b. paid, full-time professional experience in specialized service/treatment settings for persons with a developmental disability (i.e., intermediate care facilities for persons with a developmental disability);

c. paid, full-time professional experience in multi-disciplinary programs for persons with a developmental disability (i.e., mental health treatment programs for persons with dual diagnosis – mental illness and a developmental disability); or

d. paid, full-time professional experience in specialized educational, vocational, and therapeutic programs or settings for persons with a developmental disability (i.e., school special education program).

NOTE: Two years of part-time experience (minimum of 20 hours per week) may be substituted for one year of full-time experience.

e. Repealed.

4. The following activities do not qualify for the required experience:

a. volunteer professional experience; or  
b. experience gained in caring for a relative or friend with a developmental disability.

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 for Citizens with Developmental Disabilities, LR 33:2450 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2163 (October 2015), by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, amended LR 47:

#### §16327. Respite Care Services—Out of Home

A. Respite care services—out of home are provided on a short-term basis to participants who are unable to care for themselves due to the absence of, or need for, relief of caregivers who normally provide care and support. Services are provided by a center-based respite provider.

1. ...

a. Repealed.

2. While receiving respite care services, the participant's routine is maintained in order to attend school, school activities or other community activities. Community activities and transportation to and from these activities in which the participant typically engages in are to be available while receiving respite services-out of home.

a. These activities should be included in the participant's approved plan of care. This will provide the participant the opportunity to continue to participate in typical routine activities.

b. Transportation costs to and from these activities are included in the respite services-out of home rate.

#### B. Service Limits

1. Respite care services are limited to 720 hours per participant, per POC year.

2. The process for approving hours in excess of 720 hours must go through the established approval process with proper justification and documentation.

3. Federal financial participation (FFP) will be claimed for the cost of room and board only if it is provided as part of respite care furnished in a respite center approved by the state that is not a private residence.

#### C. Service Exclusions

1. ...

2. Respite care services-out of home is not a billable waiver service to participants receiving the following services:

a. community living supports;  
b. companion care;  
c. host home;  
d. shared living; or  
e. monitored in-home caregiving (MIHC).

3. Respite care services-out of home cannot be provided in a personal residence.

4. Payment will not be made for transportation-community access.

D. Provider Qualifications. Providers must be licensed by the Department of Health as a home and community-based

services provider and meet the module requirements for center-based respite in LAC 48:I.Chapter 50.

**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 for Citizens with Developmental Disabilities, LR 33:2451 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2164 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1767 (December 2019), LR 47:

#### **§16329. Shared Living Services**

A. Shared living services are provided to a participant in his/her home and community to achieve, improve, and/or maintain social and adaptive skills necessary to enable the participant to reside in the community and to participate as independently as possible. Services are chosen by the participant and developed in accordance with his/her goals and wishes with regard to compatibility, interests, age and privacy in the shared living setting.

1. - 1.g....

2. Shared living services focus on the participant's preferences and goals.

3. Supports provided are related to the acquisition, improvement, and maintenance in level of independence, autonomy, and adaptive skills and are to be included in each participant's plan of care. This includes:

- a. self-care skills,
- b. adaptive skills, and
- c. leisure skills.

4. The overall goal is to provide the participant the ability to successfully reside with others in the community while sharing supports.

5. Shared living services take into account the compatibility of the participants sharing services, which includes individual interests, age of the participants, and the privacy needs of each participant.

a. Each participant's essential personal rights of privacy, dignity and respect, and freedom from coercion are protected.

6. The shared living setting is selected by each participant among all available alternatives and is identified in each participant's plan of care.

a. Each participant has the ability to determine whether or with whom he or she shares a room.

b. Each participant has the freedom of choice regarding daily living experiences, which include meals, visitors, and activities.

c. Each participant is not limited in opportunities to pursue community activities.

7. Shared living services may be shared by up to four participants who have a common shared living provider agency.

8. Shared living services must be agreed to by each participant and the health and welfare must be able to be assured for each participant.

a. If the person has a legal guardian, the legal guardian's approval must also be obtained.

b. Each participant's plan of care must reflect the shared living services and include the shared rate for the service indicated.

9. The shared living service setting is integrated in, and facilitates each participant's full access to, the greater community, which includes providing participants with the same opportunities as individuals without disabilities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

B. An ICF/IID may elect to permanently relinquish its ICF/IID license and all of its Medicaid facility need review approved beds from the total number of certificate of need (CON) beds for that home and convert it into a shared living waiver home or in combination with other ROW residential options as deemed appropriate in the approved conversion agreement.

1. ...

2. ICF/IID residents who choose transition to a shared living waiver home must also agree to conversion of their residence.

3. ...

4. All shared living service participants are required to have an individualized back-up staffing plan and an individualized emergency evacuation plan which are to be submitted with their plan of care.

5. Shared living services are not located in a building that is a publicly or privately operated facility that provides inpatient institutional treatment, or in a building on the grounds of, or immediately adjacent to, a public institution, or disability-specific housing complex. Shared living services are not provided in settings that are isolated from the larger community.

6. Family members who provide shared living services must meet the same standards as unrelated provider agency staff.

7. Shared living service providers are responsible for providing 24-hour staff availability along with other identified responsibilities as indicated in each participant's individualized plan of care. This includes responsibility for each participant's routine daily schedule, for ensuring the health and welfare of each participant while in his or her place of residence and in the community, and for any other waiver services provided by the shared living services provider.

8. Shared living services may be provided in a residence that is owned or leased by the provider or that is owned or leased by the participant. Services may not be provided in a residence that is owned or leased by any legally responsible relative of the participant. If shared living services are provided in a residence that is owned or leased by the provider, any modification of the conditions must be supported by specific assessed needs and documented in the participant's plan of care. The provider is responsible for the cost of, and implementation of, the modification when the residence is owned or leased by the provider.

9. In a provider-owned or controlled residential setting, the following additional conditions must be met. Any modifications of the conditions must be supported by a specific assessed need and documented in the plan of care:

a. the unit or room is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the participant receiving services, and the participant has, at a minimum, the same responsibilities and protections from eviction that the tenants have under the

landlord/tenant laws of the state, parish, city, or other designated entity;

b. each participant has privacy in their sleeping or living unit, which requires the following:

i. units have lockable entrance doors, with appropriate staff having keys to doors;

ii. participants share units only at the participant's choice; and

iii. participants have the freedom to furnish and decorate their sleeping or living units;

c. participants have the freedom and support to control their own schedules and activities, and have access to food at any time;

d. participants are able to have visitors of their choosing at any time; and

e. the setting is physically accessible to the participant.

#### C. Shared Living Options

1. **Shared Living Conversion Option.** The shared living conversion option is only allowed for providers of homes which were previously licensed and Medicaid certified as an ICF/IID for up to a maximum of eight licensed and Medicaid-funded beds on October 1, 2009.

a. The number of participants for the shared living conversion option shall not exceed the licensed and Medicaid-funded bed capacity of the ICF/IID on October 1, 2009, or up to six individuals, whichever is less.

b. The ICF/IID used for the shared living conversion option must meet the department's operational, programming and quality assurances of health and safety for all participants.

c. - d. ...

2. **Shared Living Non-Conversion (New) Option.** The shared living non-conversion option is allowed only for new or existing ICF/IID providers to establish a shared living waiver home for up to a maximum of three individuals.

a. The shared living waiver home must be located separate and apart from any ICF/IID.

b. - d. ...

3. ICF/IID providers who convert an ICF/IID to a shared living home via the shared living conversion model must be approved by OCDD and licensed by HSS prior to providing services in this setting, and prior to accepting any ROW participant or applicant for residential or any other developmental disability service(s).

4. An ICF/IID provider who elects to convert to a shared living home via the shared living conversion process shall obtain the approval of all of the residents of the home(s) (or the responsible parties for these residents) regarding the conversion of the ICF/IID prior to beginning the process of conversion.

5. ICF/IID providers who elect to convert to a shared living home via the shared living conversion process shall submit a licensing application for a HCBS provider license, shared living module.

#### D. Service Exclusions and Limitations

1. Payment does not include room and board or maintenance, upkeep or improvements of the participant's or the provider's property.

2. - 5. ...

6. The following services are not available to participants receiving shared living services:

a. ...

b. respite care services-out of home;

c. - d. ...

e. monitored in-home caregiving (MIHC);

f. transportation-community access; or

g. environmental accessibility adaptations (if housing is leased or owned by the provider).

7. Shared living services are not available to participants 17 years of age and under.

8. The shared living services rate includes the cost of transportation.

a. The provider is responsible for providing transportation for all community activities except for vocational services.

b. Transportation for vocational services is included in the rate of the vocational service.

9. All Medicaid State Plan nursing services must be utilized and exhausted.

10. Payment will not be made for services provided by a relative who is a:

a. parent(s) of a minor child;

b. legal guardian of an adult or child with developmental disabilities;

c. parent(s) for an adult child regardless of whether or not the adult child has been interdicted; or

d. spouse of the participant.

11. The shared living staff may not live in the participant's place of residence.

E. **Provider Qualifications.** Providers must be licensed by the Department of Health as a home and community-based services provider and meet the module requirements for supervised independent living and/or supervised independent living-conversion in LAC 48:I.Chapter 50.

**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 for Citizens with Developmental Disabilities, LR 33:2452 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2164 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1767 (December 2019), LR 47:

#### §16333. Support Coordination

A. Support coordination services are provided to all participants to provide assistance in gaining access to needed waiver services and Medicaid State Plan services, as well as needed medical, social, education, and other services, regardless of the funding source for the services. Support coordination services include assistance with the selection of service providers, development/revision of the plan of care, and monitoring of services.

1. - 2. ...

3. Support coordination services includes on-going support and assistance to the participant.

B. When participants choose to self-direct their waiver services, the support shall provide information, assistance, and management of the service being self-directed.

### C. Service Limits

1. Support coordination shall not exceed 12 units. A calendar month is a unit.

2. ROW will utilize support coordination for assisting with the moving of individuals from the institutions. Up to 90 consecutive days or per LDH policy, but not to exceed 180 days will be allowed for transition purposes.

a. Payment will be made upon certification and may be retroactive no more than 90 days or per LDH policy, but not to exceed 180 days prior to the certification date.

3. OCDD supports and services centers are prohibited from providing case management/support coordination services in the ROW.

D. Provider Qualifications. Providers must have a current, valid license as a case management agency and meet all other requirements for targeted case management services as set forth in case management, LAC 48:I.Chapter 49.

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 for Citizens with Developmental Disabilities, LR 33:2453 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2165 (October 2015), by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, amended LR 47:

### **§16335. Supported Employment**

A. Supported employment is competitive work in an integrated work setting, or employment in an integrated work setting in which the participant is working toward competitive work, consistent with strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, with ongoing support services to those participants for whom competitive employment has not traditionally occurred.

1. Supported employment services consists of intensive, ongoing supports and services necessary for a participant to achieve the desired outcome of employment in a community setting in the state of Louisiana where a majority of the persons employed are without disabilities.

2. Supported employment services are provided to participants who are not served by Louisiana Rehabilitation Services or through a local education agency under the Individuals with Disabilities Education Act and who need more intense, long-term monitoring and who usually cannot be competitively employed because supports cannot be successfully reduced due to the nature of their disability, and natural supports would not meet this need.

B. Supported employment services provide supports in the following areas:

1. Individual placement. A supported employment placement strategy in which an employment specialist (job coach) assists a person locating competitive employment, providing training, and supporting, then gradually reducing time and assistance at the worksite.

2. Services that assist a participant to develop and operate a micro-enterprise. This consists of:

a. assisting the participant to identify potential business opportunities;

b. assistance in the development of a business plan, including potential sources of business financing and other assistance related to developing and launching a business;

c. identification of the supports that are necessary for the participant to operate the business; and

d. ongoing assistance, counseling, and guidance once the business has been launched.

3. Enclave. An employment situation in competitive employment in which a group of eight or fewer workers with disabilities are working at a particular work setting performing similar general job tasks. The disabled workers may be disbursed throughout the company and among non-disabled workers or congregated as a group in one part of the business.

4. Mobile Work Crew. A group of eight or fewer workers with disabilities who perform work in a variety of locations under the supervision of a permanent employment specialist (job coach/supervisor).

C. When supported employment services are provided at a work site in which persons without disabilities are employees, payment will be made only for the adaptations, supervision and training required by individuals receiving waiver services as a result of their disabilities, but payment will not be made for the supervisory activities rendered as a normal part of the business setting.

D. The provider is responsible for all transportation to all work sites related to the provision of services. Transportation to and from the service site is offered and billable as a component of the supported employment service.

1. Transportation is payable only when a supported employment service is provided on the same day.

2. Time spent in transportation to and from the program shall not be included in the total number of services hours provided per day.

E. - F.2. ...

G. Service Limits. Participants may receive more than one type of vocational or habilitation service per day as long as the billing criteria is followed and as long as the requirements for the minimum time spent on site are adhered to. The required minimum number of service hours per day, per participant are as follows:

1. Individual placement-one hour (four units). One-on-One services shall be billed in quarterly hour units and shall be based on the person centered plan and the ROW budget.

2. Services that assist a participant to develop and operate a micro-enterprise-one hour (four units).

3. Mobile crew/enclave services shall be in quarterly hour units of service and shall not exceed 8,320 units of service per POC year, without additional documentation. Mobile crew and enclave services are an eight hours per day, five days per week service.

4. Repealed.

H. Service Exclusions and Restrictions. Participants receiving individual supported employment services may also receive prevocational or day habilitation services. However, these services cannot be provided during the same service hours. Participants receiving group supported employment services may also receive prevocational or day habilitation services; however, these services cannot be provided in the same service day.

1. ...

2. Supportive employment cannot be billed for the same time as any of the following services:

a. community living supports;

- b. professional services (except those direct contacts needed to develop a behavioral management plan);
- c. respite services-out of home;
- d. adult day health care; or
- e. monitored in-home care giving (MIHC).

3. Any time less than the minimum 15 minute unit of service is provided for any model is not billable or payable.

a. - e. Repealed.

4. Time spent in transportation to and from the program shall not be included in the total number of services hours provided per day.

a. Travel training for the purpose of teaching the participant how to use transportation services may be included in determining the total service numbers hours provided per day, but only for the period of time specified in the POC.

b. Transportation is payable only when a supported employment service is provided on the same day.

5. FFP will not be claimed for incentive payments, subsidies, or unrelated vocational training expenses, such as the following:

a. incentive payments made to an employer to encourage or subsidize the employer's participation in a supported employment program;

b. payments that are passed through to users of supported employment programs; or

c. payments for vocational training that is not directly related to an individual's supported employment program.

6. Supported employment services are not available to individuals who are otherwise eligible to participate in special education or related services programs, as defined under Sections 602(16) and (17) of the Education of the Handicapped Act, through a local educational agency or in vocational rehabilitation services through a program funded under Section 110 of the Rehabilitation Act of 1973.

a. - c. Repealed.

7. No rounding up of service units is allowed.

8. Billing for multiple vocational or habilitative services at the same time is prohibited.

I. Provider Qualifications. Supported employment services may be delivered either by an adult day care center provider or a community rehabilitation program provider.

1. Adult day care center provider agencies must be licensed by the Department of Health as home and community-based services providers and meet the module requirements for adult day care in LAC 48:I.Chapter 50.

2. Community Rehabilitation Program provider agencies must possess a Louisiana rehabilitation services compliance certificate from Louisiana Rehabilitation Services.

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2453 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2166 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1767 (December 2019), LR 47:

### **§16337. Transportation-Community Access**

A. Transportation-community access services are provided to assist the participant in becoming involved in his or her community. The service encourages and fosters the developmental of meaningful relationships in the community which reflects the participant's choice and values. This service provides the participant with a means of access to community activities and resources. The goal is to increase the participant's independence, productivity, and community inclusion and to support self-directed employees benefits as outlined in the participant's POC.

1. Transportation-community access services are to be included in the participant's plan of care.

2. The participant must be present for the service to be billed.

a. - b. Repealed.

3. Prior to accessing transportation-community access services, the participant is to utilize free transportation provided by family, friends, and community agencies.

4. When appropriate, the participant should access public transportation or the most cost-effective method of transportation prior to accessing transportation-community access services.

#### **B. Service Limits**

1. Community access trips are limited to no more than three round trips per day and must be arranged for geographic efficiency.

2. ...

#### **C. Service Exclusions**

1. Transportation-community access services shall not replace the following services:

a. transportation services to medically necessary services under the Medicaid State Plan;

b. transportation services provided as a means to get to and from school; or

c. transportation services to or from day habilitation, prevocational services, or supported employment services.

2. Transportation-community access services are not available to participants receiving the following services:

a. shared living;

b. host home; or

c. companion care.

d. - e. Repealed.

3. ...

4. Transportation-community access services may not be billed for the same day at the same time as community living supports.

D. Provider Qualifications. Friends and family members who furnish transportation-community access services to waiver participants must be enrolled as Medicaid non-emergency medical transportation (NEMT) family and friends providers with the Department of Health (Bureau of Health Services Financing).

1. In order to receive reimbursement for transporting Medicaid recipients to waiver services, family and friends must maintain compliance with the following:

a. state minimum automobile liability insurance coverage;

b. possess a current state inspection sticker; and

c. possess a current valid driver's license.



2. - 3.a. ...

4. NEMT (family and friends transportation) providers may provide for up to three identified waiver participants.

E. ...

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2454 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2166 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1768 (December 2019), LR 47:

#### **§16339. Housing Stabilization Transition Services**

A. Housing stabilization transition services enable participants who are transitioning into a permanent supportive housing unit, including those transitioning from institutions, to secure their own housing. This service is provided while the participant is in an institution and preparing to exit the institution using the waiver. The service includes the following components:

1. - 1.h....

2. assisting a participant to view and secure housing, as needed. This may include the following:

a. - d. ...

e. locating furnishings;

3. 5. ...

B. This service is only available to participants upon referral from the support coordinator, and is not duplicative of other waiver services, including support coordination.

1. participants must be residing in a state of Louisiana permanent supportive housing unit; or

2. participants must be linked for the state of Louisiana permanent supportive housing selection process.

C. Participants are limited to receiving no more than 165 combined units of this service and the housing stabilization transition service. This limit on combined units can only be exceeded with written approval from OCDD.

D. **Provider Qualifications.** The permanent supportive housing (PSH) agency must be under contract and enrolled with the Department of Health statewide management organization for behavioral health services, and must also either:

1. meet the requirements for completion of the training program as verified by the PSH director; or

2. have at least one year of completion of housing support team experience in the PSH program as verified by the PSH director.

**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 and the Office for Citizens with Developmental Disabilities, LR 41:2169 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:

#### **§16341. Housing Stabilization Services**

A. Housing stabilization services enable waiver participants to maintain their own housing as set forth in the participant's approved plan of care. Services must be provided in the home or a community setting. Housing stabilization services include the following components:

1. conducting a housing assessment identifying the participant's preferences related to housing (type, location, living alone or with someone else, accommodations needed, and other important preferences), and needs for support to maintain housing, including:

a. - h. ...

2. assisting a participant to view and secure housing, as needed and may include the following:

a. arranging or providing transportation;

b. assisting in securing supporting documents/records;

c. completing/submitting applications;

d. securing deposits; and

e. locating furnishings;

3. - 3.c....

4. participating in the development of the plan of care, incorporating elements of the housing stabilization service provider plan, and in plan of care renewal and updates, as needed;

5. providing supports and interventions according to the individualized housing stabilization service provider plan. If additional supports or services are identified as needed outside of the scope of housing stabilization services, the needs must be communicated to the support coordinator;

a. - c. Repealed.

6. providing ongoing communication with the landlord or property manager regarding:

a. the participant's disability;

b. accommodations needed; and

c. components of emergency procedures involving the landlord or property manager; and

7. if at any time the participant's housing is placed at risk (i.e., eviction, loss of roommate or income), housing stabilization services will provide supports to retain housing or locate and secure housing to continue community-based supports, including locating new housing, sources of income, etc.

B. This service is only available upon referral from the support coordinator, and is not duplicative of other waiver services, including support coordination.

1. Participants must be residing in a state of Louisiana permanent supportive housing unit; or

2. participants must be linked for the state of Louisiana permanent supportive housing selection process.

C. Participants are limited to receiving no more than 165 combined units of this service and the housing stabilization transition service. This limit on combined units can only be exceeded with written approval from OCDD.

D. **Provider Qualifications.** The permanent supportive housing (PSH) agency must be under contract and enrolled with the Department of Health and statewide management organization for behavioral health services, and must also either:

1. meet the requirements for completion of the training program as verified by the PSH director; or

2. have at least one year of completion of housing support team experience in the PSH program as verified by the PSH director.

**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 and the Office for Citizens with Developmental Disabilities, LR 41:2170

(October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:

**§16343. Adult Day Health Care Services**

A. Adult day health care (ADHC) services shall be furnished as specified in the POC and at an ADHC facility in a non-institutional, community-based setting encompassing both health/medical, and social services needed to ensure the optimal functioning of the participant.

B. ADHC services include those core service requirements identified in the ADHC licensing standards (LAC 48:I.4243), in addition to the following:

1. ...
2. transportation between the participant's place of residence and the ADHC (if the participant is accompanied by the ADHC staff) in accordance with licensing standards;
3. - 6. ...
7. health education classes;
8. individualized health/nursing services; and
9. meals. Meals shall not constitute a full nutritional regimen (three meals per day), but shall include a minimum of two snacks and a hot, nutritious lunch per day.

a. Repealed.

C. The number of people included in the service per day depends on the licensed capacity and attendance at each facility. The average capacity per facility is 49 participants.

D. Nurses shall be involved in the participant's service delivery as specified in the plan of care (POC) or as needed. Each participant has a plan of care from which the ADHC shall develop an individualized service plan based on the participant's POC. If the individualized service plan calls for certain health and nursing services, the nurse on staff shall ensure that the services are delivered while the participant is at the ADHC facility.

E. ...

F. The following services are not available to ADHC recipients:

1. monitored in-home caregiving (MIHC).
2. - 4. Repealed.

G. Provider Qualifications:

1. ADHC providers must be licensed according to the adult day health care provide licensing requirements contained in the Revised Statutes (R.S. 40:2120.41-40:2120.47).

2. ADHC providers must be enrolled as a Medicaid ADHC provider.

3. ADHC providers must comply with LDH rules and regulations.

4. Qualifications for ADHC center staff are set forth in the *Louisiana Administrative Code*.

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 and the Office for Citizens with Developmental Disabilities, LR 42:62 (January 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1768 (December 2019), LR 47:

**§16345. Monitored In-Home Caregiving Services**

A. Monitored in-home caregiving (MIHC) services are provided to a participant living in a private home with a principal caregiver. The principal caregiver shall be contracted by the licensed HCBS provider having a MIHC service module. The principal caregiver shall reside with the participant. Professional staff employed by the HCBS provider shall provide oversight, support and monitoring of the principal caregiver, service delivery, and participant outcomes through on-site visits, training, and daily web-based electronic information exchange.

1. The goal of this service is to provide a community-based option that provides continuous care, supports, and professional oversight.

2. This goal is achieved by promoting a cooperative relationship between a participant, a principal caregiver, the professional staff of a monitored in-home caregiver agency provider, and the participant's support coordinator.

B. The principal caregiver is responsible for supporting the participant to maximize the highest level of independence possible by providing necessary care and supports that may include:

1. - 4. ...

5. supervision or assistance while escorting or accompanying the individual outside of the home to perform tasks, including instrumental activities of daily living, health maintenance or other needs as identified in the plan of care and to provide the same supervision or assistance as would be rendered in the home; and

6. ...

C. Service Exclusions and Restrictions

1. Participants electing monitored in-home caregiving are not eligible to receive the following Residential Options Waiver services during the period of time that the participants are receiving monitored in-home caregiving services:

- a. community living supports (CLS);
- b. companion care supports;
- c. host home;
- d. shared living supports;
- e. adult day health Care services; and
- f. day habilitation, pre-vocational, or supportive employment services.

2. - 5. Repealed.

D. Monitored in-home caregiving: providers must be agency providers who employ professional nursing staff, including a registered nurse and a care manager, and other professionals to train and support principal caregivers to perform the direct care activities performed in the home.

1. The agency provider must assess and approve the home in which services will be provided, and enter into contractual agreements with caregivers whom the agency has approved and trained.

2. The agency provider will pay per diem stipends to caregivers.

3. The agency provider must capture daily notes electronically and use the information collected to monitor participant health and caregiver performance.

4. The agency provider must make such notes available to support coordinators and the state, upon request.

5. Repealed.

E. The MIHC provider must use secure, web-based information collection from principal caregivers for the purposes of monitoring participant health and caregiver performance. All protected health information must be transferred, stored, and otherwise utilized in compliance with applicable federal and state privacy laws. Providers must sign, maintain on file, and comply with the LDH HIPAA business associate addendum.

F. The department shall reimburse for monitored in-home caregiving services based on a two-tiered model which is designed to address the participant's acuity.

G. Provider Qualifications

1. MIHC providers must be licensed according to the home and community based service provider licensing requirements contained in the R.S. 40:2120.2-2121.9.

2. MIHC providers must enroll as a Medicaid monitored in-home caregiving provider.

3. MIHC providers must comply with LDH rules and regulations.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1768 (December 2019), amended LR 47:

**Chapter 165. Self-Direction Initiative**

**§16501. Self-Direction Service Option**

A. Self-direction is a service delivery option which allows participants (or their authorized representative) to exercise employer authority in the delivery of their authorized self-directed services (community living supports).

1. Participants are informed of all available services and service delivery options, including self-direction, at the time of the initial assessment, annually, or as requested by participants or their authorized representative. Participants, who are interested in self-direction, need only notify their support coordinator, who will facilitate the enrollment process.

2. A contracted fiscal/employer agent is responsible for processing the participant's employer-related payroll, withholding and depositing the required employment-related taxes, and sending payroll reports to the participant or his/her authorized representative.

3. Support coordinators assist participants by providing the following activities:

- a. the development of the participant's plan of care;
- b. organizing the unique resources the participant needs;
- c. training participants on their employer responsibilities;
- d. completing required forms for participation in self-direction;
- e. back-up service planning;
- f. budget planning;
- g. verifying that potential employees meet program qualifications; and
- h. ensuring participant's needs are being met through services.

B. Participant Eligibility. Selection of the self-direction option is strictly voluntary. To be eligible to participate in the self-direction service option, waiver participants must:

1. be able to participate in the self-direction option without a lapse in or decline in quality of care or an increased risk to health and welfare;

2. complete the training programs (e.g., initial enrollment training) designated by OCDD; and

a. - a.ii. Repealed.

3. understand the rights, risks, and responsibilities of managing his or her own care and effectively managing his or her plan of care.

NOTE: If the waiver participant is unable to make decisions independently, the participant must have a willing decision maker (an authorized representative as listed on the participant's plan of care) who understands the rights, risks, and responsibilities of managing the care and supports of the participant within the plan of care.

a. - b. Repealed.

C. Participant Responsibilities. Responsibilities of the waiver participant or his or her authorized representative include the following:

1. Participants must adhere to the health and welfare safeguards identified by the support team, including the following:

a. the application of a comprehensive monitoring strategy and risk assessment and management system; and

b. compliance with the requirement that employees under this option must have criminal background checks prior to working with waiver participants;

2. Waiver participant's participation in the development and management of the approved personal purchasing plan.

a. This annual budget is determined by the recommended service hours listed in the participant's POC to meet his needs.

b. The participant's individual budget includes a potential amount of dollars within which the participant, or his/her authorized representative, exercises decision-making responsibility concerning the selection of services and service providers.

c. - d.iv. Repealed.

3. Participants are informed of the self-direction option at the time of the initial assessment, annually, or as requested by participants or their authorized representative. If the participant is interested, the support coordinator will provide more information on the principles of self-determination, the services that can be self-directed, the roles and responsibilities of each service option, the benefits and risks of each service option, and the process for enrolling in self-direction.

4. Prior to enrolling in self-direction, the participant or his/her authorized representative is trained by the support coordinator on the process for completing the following duties:

a. best practices in recruiting, hiring, training, and supervising staff;

b. determining and verifying staff qualifications;

c. the process for obtaining criminal background checks on staff;

- d. determining the duties of staff based on the service specifications;
- e. determining the wages for staff within the limits set by the state;
- f. scheduling staff and determining the number of staff needed;
- g. orienting and instructing staff in duties;
- h. best practices for evaluating staff performance;
- i. verifying time worked by staff and approving timesheets;
- j. terminating staff, as necessary;
- k. emergency preparedness planning; and
- l. back-up planning.

5. This training also includes a discussion on the differences between self-direction and other service delivery options (which includes the benefits, risks, and responsibilities associated with each service option) and the roles and responsibilities of the employer, support coordinator, and fiscal/employer agent.

6. Participants who choose self-direction verify that they have received the required training by signing the service agreement form.

**D. Termination of Self-Direction Service Option.** Termination of participation in the self-direction service option requires a revision of the POC, the elimination of the fiscal agent and the selection of the Medicaid-enrolled waiver service provider(s) of choice.

1. **Voluntary Termination.** The waiver participant may choose at any time to withdraw from the self-direction service option and return to the traditional provider agency management of services.

- a. Proper arrangements will be made by the support coordinator to ensure that there is no lapse in services.

- b. Should the request for voluntary withdrawal occur, the participant will receive counseling and assistance from his or her support coordinator immediately upon identification of issues or concerns in any of the above situations.

2. **Involuntary Termination.** The department may terminate the self-direction service option for a participant and require him or her to receive provider-managed services under the following circumstances:

- a. the participant does not receive self-directed services for 90 days or more;
- b. the health, safety, or welfare of the participant is compromised by continued participation in the self-direction service option;
- c. the participant is no longer able to direct his own care and there is no responsible representative to direct the care;
- d. there is misuse of public funds by the participant or the authorized representative;
- e. over three payment cycles in the period of a year, the participant or authorized representative:
  - i. permits employees to work over the hours approved in the participant's plan of care or allowed by the participant's program;
  - ii. places barriers to the payment of the salaries and related state and federal payroll taxes of direct support staff;

- iii. fails to follow the personal purchasing plan and the POC;

- iv. fails to provide required documentation of expenditures and related items; or

- v. fails to cooperate with the fiscal agent or support coordinator in preparing any additional documentation of expenditures; or

- f. the participant or the authorized representative consistently violates Medicaid program rules or guidelines of the self-direction option.

3. When action is taken to terminate a participant from self-direction involuntarily, the support coordinator immediately assists the participant in accessing needed and appropriate services through the ROW and other available programs, ensuring that no lapse in necessary services occurs for which the participant is eligible. There is no denial of services, only the transition to a different payment option. The participant and support coordinator are provided with a written notice explaining the reason for the action and citing the policy reference.

**E. Employees of participants in the self-direction service option are not employees of the fiscal agent or the department.**

1. **Employee Qualifications.** All employees under the self-direction option must:

- a. be at least 18 years of age on the date of hire;
- b. pass required criminal background checks; and
- c. be able to complete the tasks identified in the plan of care.

**F. Relief coverage for scheduled or unscheduled absences, which are not classified as respite care services, can be covered by other participant-directed providers and the terms can be part of the agreement between the participant and the primary companion care provider.**

**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 for Citizens with Developmental Disabilities, LR 33:2455 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2167 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:

## **Chapter 167. Provider Participation**

### **§16701. General Provisions**

A. - E. ...

**F. Any ROW service may be provided by a member of the participant's family, provided that the family member is not the legally responsible relative.**

1. Services may not be provided by an individual who lives with the participant, whether or not the individual is a family member.

2. An exception to the lives with exclusion applies to adult companion care and monitored in-home caregiving since these services are based on a roommate/in-home caregiver providing supports to the participant.

3. Payment for services rendered are approved by prior and post authorization as outlined in the POC.

4. During periods of emergency, participants may live with their direct support staff on a temporary basis as

allowed, in writing, by the OCDD Assistant Secretary or designee.

G. - G.3.a. ...

**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 for Citizens with Developmental Disabilities, LR 33:2455 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2168 (October 2015), LR 42:63 (January 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:

### **§16703. Staffing Restrictions and Requirements**

A. - B. ...

1. Relatives must also comply with the following requirements:

a. become an employee of the participant's agency of choice and meet the same standards as direct support staff who are not related to the individual;

b. - c.ii. ...

2. Family members who may provide services include:

- a. parents of an adult child;
- b. siblings;
- c. grandparents;
- d. aunts, and uncles; and
- e. cousins.

**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 and the Office for Citizens with Developmental Disabilities, LR 41:2168 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:

### **Chapter 169. Reimbursement**

#### **§16901. Unit of Reimbursement**

A. - F. ...

G. Transition expenses from an ICF/IID or nursing facility to a community living setting are reimbursed at the cost of the service(s) up to a lifetime maximum rate of \$3,000.

H. - J. ...

**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 for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:1049 (April 2013), LR 41:2168, 2170 (October 2015), LR 42:63 (January 2016), LR 42:900 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2530 (December 2017), LR 45:1769 (December 2019), LR 47:

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

### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 as it will increase access to supports and services for ROW participants.

### **Poverty Impact Statement**

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

### **Small Business Analysis**

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

### **Provider Impact Statement**

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

### **Public Comments**

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

### **Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on August 9, 2021. If the criteria set forth in R.S.49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on August 26, 2021 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225)342-1342 after August 9, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Home and Community-Based Services  
Waivers—Residential Options Waiver**

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

It is anticipated that implementation of this proposed rule will result in increased state costs of approximately \$6,082 for FY 21-22, \$102 for FY 22-23 and \$102 for FY 23-24. It is anticipated that \$12,096 (\$6,048 SGF and \$6,048 FED) will be expended in FY 21-22 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$6,119 for FY 21-22, \$216 for FY 22-23, and \$216 for FY 23-24. It is anticipated that \$6,048 will be collected in FY 21-22 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This proposed rule amends the provisions governing the Residential Options Waiver (ROW) in order to align the language and services streamlining process (i.e., services approval, tier waiver transition, billing/same services) in the administrative rule with other home and community-based waivers in compliance with ROW program changes approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS). This proposed rule will be beneficial to ROW participants by ensuring that the administrative rule accurately reflects the provisions of the CMS-approved waiver which will ensure continuity of services across waiver tiers. In addition, ROW providers will benefit from implementation of this proposed rule as it is anticipated that it will increase payments to ROW providers for supported employment services by approximately \$105 for FY 21-22, \$318 for FY 22-23, and \$318 for FY 23-24.

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

This rule has no known effect on competition and employment.

Tara A. LeBlanc  
Interim Medicaid Executive Director  
2107#056

Alan M. Boxberger  
Staff Director  
Legislative Fiscal Officer

**NOTICE OF INTENT**

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

**Reimbursement to Federally Qualified Health Centers and  
Rural Health Clinics for Coronavirus Disease 2019  
(COVID-19) Vaccine Administration  
(LAC 50:XI.10703 and 16703)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XI.10703 and §16703 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the

provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing reimbursement for federally qualified health centers and rural health clinics in order to establish an alternative payment methodology to allow reimbursement for administration of the Coronavirus Disease 2019 (COVID-19) vaccine outside of the current all-inclusive prospective payment system rate on file.

**Title 50**

**PUBLIC HEALTH MEDICAL ASSISTANCE**

**Part XI. Clinic Services**

**Subpart 13. Federally Qualified Health Centers**

**Chapter 107. Reimbursement Methodology**

**§10703. Alternate Payment Methodology**

**A. — G. —**

~~H. During the Coronavirus Disease 2019 (COVID-19) public health emergency, Louisiana Medicaid will establish an alternative payment methodology (APM) for FQHC providers to be reimbursed at the standard vaccine administration payment rates listed on the COVID-19 vaccine and treatment fee schedule outside of the facility's current all-inclusive prospective payment system rate on file. This APM will only be allowed when the COVID-19 vaccine is administered without the performance of an evaluation and management procedure on the same date of service.~~

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

~~HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1033 (June 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 44:1894 (October 2018), LR 44:2162 (December 2018), LR 45:434 (March 2019), LR 46:182 (February 2020), LR 47:~~

**Subpart 15. Rural Health Clinics**

**Chapter 167. Reimbursement Methodology**

**§16703. Alternate Payment Methodology**

**A. — G. —**

~~H. During the Coronavirus Disease 2019 (COVID-19) public health emergency, Louisiana Medicaid will establish an alternative payment methodology (APM) for RHC providers to be reimbursed at the standard vaccine administration payment rates listed on the COVID-19 vaccine and treatment fee schedule outside of the facility's current all-inclusive prospective payment system rate on file. This APM will only be allowed when the COVID-19 vaccine is administered without the performance of an evaluation and management procedure on the same date of service.~~

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

~~HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1036 (June 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 44:1903 (October 2018), LR 44:2168 (December 2018), LR 45:435 (March 2019), amended LR 46:185 (February 2020), LR 47:~~

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



## State of Louisiana

Louisiana Department of Health  
Office of the Secretary

September 10, 2021

**Via Statutorily Prescribed Email**

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

**From:** Dr. Courtney N. Phillips  
Secretary

**Re:** Second Report LAC 50:XI.10703 and 16703 – Reimbursement to Federally Qualified Health Centers and Rural Health Clinics for Corona Virus Disease 2019 (COVID-19) Vaccine Administration

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Reimbursement to Federally Qualified Health Centers and Rural Health Clinics for Corona Virus Disease 2019 (COVID-19) Vaccine Administration, LAC 50:XI.10703 and 16703.

A Notice of Intent on the proposed amendments was published in the June 20, 2021 issue of the *Louisiana Register* (LR 47:1008). No written comments were received and there was no request for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:968B-C was submitted.

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

Please contact Marcus Bachhuber, MD, [Marcus.Bachhuber@la.gov](mailto:Marcus.Bachhuber@la.gov) and Andrew Perilloux, [Andrew.Perilloux@la.gov](mailto:Andrew.Perilloux@la.gov), if you have any questions or require additional information about this matter.

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



**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Home and Community-Based Services  
Waivers—Residential Options Waiver**

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

~~It is anticipated that implementation of this proposed rule will result in increased state costs of approximately \$6,082 for FY 21-22, \$102 for FY 22-23 and \$102 for FY 23-24. It is anticipated that \$12,096 (\$6,048 SGF and \$6,048 FED) will be expended in FY 21-22 for the state's administrative expense for promulgation of this proposed rule and the final rule.~~

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

~~It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$6,119 for FY 21-22, \$216 for FY 22-23, and \$216 for FY 23-24. It is anticipated that \$6,048 will be collected in FY 21-22 for the federal share of the expense for promulgation of this proposed rule and the final rule.~~

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

~~This proposed rule amends the provisions governing the Residential Options Waiver (ROW) in order to align the language and services streamlining process (i.e., services approval, tier waiver transition, billing/same services) in the administrative rule with other home and community-based waivers in compliance with ROW program changes approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS). This proposed rule will be beneficial to ROW participants by ensuring that the administrative rule accurately reflects the provisions of the CMS-approved waiver which will ensure continuity of services across waiver tiers. In addition, ROW providers will benefit from implementation of this proposed rule as it is anticipated that it will increase payments to ROW providers for supported employment services by approximately \$105 for FY 21-22, \$318 for FY 22-23, and \$318 for FY 23-24.~~

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

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

Tara A. LeBlanc  
Interim Medicaid Executive Director  
2107#056

Alan M. Boxberger  
Staff Director  
Legislative Fiscal Officer

**NOTICE OF INTENT**

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

Reimbursement to Federally Qualified Health Centers and  
Rural Health Clinics for Coronavirus Disease 2019  
(COVID-19) Vaccine Administration  
(LAC 50:XI.10703 and 16703)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XI.10703 and §16703 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the

provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing reimbursement for federally qualified health centers and rural health clinics in order to establish an alternative payment methodology to allow reimbursement for administration of the Coronavirus Disease 2019 (COVID-19) vaccine outside of the current all-inclusive prospective payment system rate on file.

**Title 50**

**PUBLIC HEALTH-MEDICAL ASSISTANCE**

**Part XI. Clinic Services**

**Subpart 13. Federally Qualified Health Centers**

**Chapter 107. Reimbursement Methodology**

**§10703. Alternate Payment Methodology**

A. - G. ...

H. During the Coronavirus Disease 2019 (COVID-19) public health emergency, Louisiana Medicaid will establish an alternative payment methodology (APM) for FQHC providers to be reimbursed at the standard vaccine administration payment rates listed on the COVID-19 vaccine and treatment fee schedule outside of the facility's current all-inclusive prospective payment system rate on file. This APM will only be allowed when the COVID-19 vaccine is administered without the performance of an evaluation and management procedure on the same date of service.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1033 (June 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 44:1894 (October 2018), LR 44:2162 (December 2018), LR 45:434 (March 2019), LR 46:182 (February 2020), LR 47:

**Subpart 15. Rural Health Clinics**

**Chapter 167. Reimbursement Methodology**

**§16703. Alternate Payment Methodology**

A. - G. ...

H. During the Coronavirus Disease 2019 (COVID-19) public health emergency, Louisiana Medicaid will establish an alternative payment methodology (APM) for RHC providers to be reimbursed at the standard vaccine administration payment rates listed on the COVID-19 vaccine and treatment fee schedule outside of the facility's current all-inclusive prospective payment system rate on file. This APM will only be allowed when the COVID-19 vaccine is administered without the performance of an evaluation and management procedure on the same date of service.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1036 (June 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 44:1903 (October 2018), LR 44:2168 (December 2018), LR 45:435 (March 2019), amended LR 46:185 (February 2020), LR 47:

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

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

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will positively affect family functioning, stability, and autonomy as described in R.S.49:972 as it will increase access to the COVID-19 vaccine in underserved areas.

#### **Poverty Impact Statement**

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

#### **Small Business Analysis**

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

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications and no direct or indirect cost to the provider to provide the same level of service as described in HCR 170, but may reduce the total direct and indirect cost and enhance the ability of some providers to provide the same level of service since this proposed Rule provides payments for services they already render.

#### **Public Comments**

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

#### **Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on August 9, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on August 26, 2021 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after August 9, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data,

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

Dr. Courtney N. Phillips  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Reimbursement To Federally Qualified Health Centers And Rural Health Clinics For Coronavirus Disease 2019**

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

Implementation of this proposed rule will not have a net programmatic fiscal impact to the state for FY 21-22, FY 22-23, and FY 23-24, as it is anticipated that costs associated with the vaccine administration will be reimbursed at 100 percent Federal Medical Assistance Percentage (FMAP) rate. Total reimbursement for administration costs is indeterminable. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 21-22 for the state's administrative expense for promulgation of this proposed rule and final rule.

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

It is anticipated that the implementation of this proposed rule will have an indeterminable effect on revenue collections for FY 21-22, FY 22-23, and FY 23-24. Programmatic costs for the administration of vaccines will be reimbursed at 100 percent FMAP rate. It is anticipated that \$324 will be collected in FY 21-22 for the federal share of expense for promulgation of this proposed rule and the final rule.

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

This proposed rule amends the provisions governing reimbursement for federally qualified health centers and rural health clinics in order to establish an alternative payment methodology to allow reimbursement for administration of the Coronavirus Disease 2019 (COVID-19) vaccine outside of the current all-inclusive prospective payment system rate on file. This proposed rule will be beneficial to recipients by increasing access to vaccines during a public health emergency (PHE). It is anticipated that implementation of this proposed rule will result in an indeterminable increase in payments to the FQHC and RHC providers in FY 21-22, FY 22-23 and FY 23-24 and will be beneficial by establishing a reimbursement methodology for COVID-19 vaccine administration during a PHE.

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

This rule has no known effects on competition and employment.

Tara A. LeBlanc  
Interim Medicaid Executive Director  
2107#055

Alan M. Boxberger  
Staff Director  
Legislative Fiscal Office