



State of Louisiana
Louisiana Department of Health
Office of the Secretary

October 9, 2019

Via Statutorily Prescribed Email

To: The Honorable Fred H. Mills, Jr. Chairman, Senate Health & Welfare Committee
The Honorable Frank A. Hoffmann, Chairman, House Health & Welfare Committee

By Cindy River for
From: Rebekah E. Gee, MD, MPH
Secretary

Re: Second Report on Proposed Amendments to LAC 50:XV.703 – Applied Behavior Analysis-Based Therapy Services Reimbursement Methodology

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Hospital Licensing Standards rule amendment.

A Notice of Intent on the proposed amendments was published in the August 20, 2019 issue of the *Louisiana Register* (LR 45:1107). No written comments or 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, 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 August 20, 2019, Notice of Intent when it is published as a final rule in the November 20, 2019, issue of the *Louisiana Register*.

LAC 50:XV.703

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Should you have any questions or need additional information, please contact Jen Katzman, Medicaid Deputy Director, at Jennifer.Katzman@la.gov.

Cc: Jen Katzman, Deputy Medicaid Director, Department of Health
Veronica Dent, Medicaid Program Manager, Department of Health
Anita Dupuy, Legislative Liaison, Department of Health
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Applied Behavior Analysis-Based Therapy Services Reimbursement Methodology (LAC 50:XV.703)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XV.703 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 applied behavior analysis-based therapy services in order to clarify the requirements relative to the appropriate current procedural terminology (CPT) codes utilized for reimbursement for these services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 1. Applied Behavior Analysis-Based Therapy Services

§703. Reimbursement Methodology

A. ...

B. Effective for dates of service on or after January 1, 2017, ABA rates and codes in effect on December 31, 2016 ~~will~~may

be realigned to be consistent with ~~the Louisiana~~ commercial rates ~~in the state related to these or ABA codes which go into effect statewide on January 1, 2017~~ adopted by the American Medical Association via current procedural terminology (CPT) codes.

1. ...

2. New prior authorizations with a begin date after the promulgation date of these provisions must use the codes in effect prior to January 1, 2017 for those services provided and to be delivered prior to January 1, 2017, and for any services provided after January 1, 2017, the codes in effect ~~on January 1, 2017 must be used~~ at the time of service delivery.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:928 (May 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:662 (April 2017), LR 45:

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

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

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

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

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The

deadline for submitting written comments is at 4:30 p.m. on September 29, 2019.

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 September 9, 2019. 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 September 29, 2019 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 September 9, 2019. 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.

Rebekah E. Gee MD, MPH

Secretary



State of Louisiana
Louisiana Department of Health
Office of the Secretary

October 9, 2019

Via Statutorily Prescribed Email

To: The Honorable Fred H. Mills, Jr. Chairman, Senate Health & Welfare Committee
The Honorable Frank A. Hoffmann, Chairman, House Health & Welfare Committee

From: *By Candy Rives for*
Rebekah E. Gee, MD, MPH
Secretary

Re: Second Report on Proposed Amendments to LAC 48:I.4001 and 50.XXVII.331–
Ground Ambulance Provider Fee and Enhanced Reimbursements for Qualifying Ground
Ambulance Service Providers

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Hospital Licensing Standards rule amendment.

A Notice of Intent on the proposed amendments was published in the August 20, 2019 issue of the *Louisiana Register* (LR 45:1108). No written comments or 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, 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 August 20, 2019, Notice of Intent when it is published as a final rule in the November 20, 2019, issue of the *Louisiana Register*.

LAC 48:I.4001 and 50.XXVII.331

October 9, 2019

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Should you have any questions or need additional information, please contact Jen Katzman, Medicaid Deputy Director, at Jennifer.Katzman@la.gov.

Cc: Jen Katzman, Deputy Medicaid Director, Department of Health
Veronica Dent, Medicaid Program Manager, Department of Health
Anita Dupuy, Legislative Liaison, Department of Health
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

NOTICE OF INTENT

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

**Ground Ambulance Provider Fees
and
Enhanced Reimbursements for Qualifying Ground Ambulance Service
Providers
(LAC 48:I.4001 and 50.XXVII.331)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.4001 and 50.XXVII.331 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 46:2625 and 2626, and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 299 of the 2019 Regular Session of the Louisiana Legislature directed the Department of Health, Bureau of Health Services Financing to amend the provisions governing the health care service provider fees for ground ambulance service providers to include non-emergency ground ambulance services, and to include non-emergency ground ambulance services in enhanced reimbursement for emergency ground ambulance transportation services. In order to comply with the requirements of Act 299, the department promulgated an Emergency Rule which amended the provisions governing provider fees and emergency medical transportation enhanced reimbursements

(Louisiana Register, Volume 45, Number 7). This proposed Rule is being promulgated in order to continue the provisions of the July 1, 2019 Emergency Rule.

Title 48
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part I. General Administration
Subpart 1. General

Chapter 40. Provider Fees

§4001. Specific Fees

A. Definitions

Emergency Ground Ambulance Service Provider—a non-public, non-federal provider of emergency and non-emergency ground ambulance services.

B. - D. ...

E. Emergency and Non-Emergency Ground Ambulance Services. Effective August 1, 2016, a fee shall be imposed on emergency ground ambulance service providers for emergency ground ambulance services in accordance with R.S. 46:2626. Effective July 1, 2019, this fee shall also include non-emergency ambulance services.

1. The total assessment for the initial state fiscal year in which the assessment is charged shall not exceed the lesser of the following:

a. ...

b. 1 1/2 percent of the net operating revenue of all emergency ground ambulance service providers assessed relating to the provision of emergency and non-emergency ground ambulance transportation.

2. Except for the first year maximum fee of 1 1/2 percent of the net operating revenue, the department shall not impose any new fee or increase any fee on any emergency ground ambulance service provider on or after July 1, 2016, without first obtaining either of the following:

a. ...

b. written agreement of those providers subject to the fee which provide a minimum of 65 percent of the emergency and non-emergency ground ambulance transports.

3. After the initial year of assessment, the assessment shall be a percentage fee, determined at the discretion of the secretary and subject to the provisions below in collaboration with the express and written mutual agreement of the emergency ground ambulance service providers subject to the assessment and which make up a minimum of 65 percent of all emergency and non-emergency ground ambulance transports in the state of Louisiana.

a. ...

4. ~~Prior to levying or collecting the assessment for the applicable assessment period, the department shall publish~~

~~in the official state journal the total amount of the assessment and the corresponding applicable percentage of net operating revenue that will be applied to the assessed providers.~~Repealed.

F. - F.5. ...

AUTHORITY NOTE: Promulgated in accordance with Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2626 and P.L. 102-234.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 19:347 (March 1993), amended LR 20:51 (January 1994), LR 26:1478 (July 2000), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:100 (January 2007), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1887, 1888 (November 2016), LR 43:73 (January 2017), repromulgated LR 43:323 (February 2017), amended LR 44:1015 (June 2018), LR 44:1894 (October 2018), LR 45:

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXVII. Medical Transportation Program

Chapter 3. Emergency Medical Transportation

Subchapter B. Ground Transportation

§331. Enhanced Reimbursements for Qualifying Emergency

Ground Ambulance Service Providers

A. ~~Effective for dates of service on or after August 1, 2016, qualifying emergency ambulance service providers assessed a fee as outlined in LAC 48:I.4001.E.1.a-d shall receive enhanced reimbursement for emergency ground ambulance transportation services rendered during the quarter through the Supplemental Payment Program described in Louisiana Medicaid State Plan Amendment Transmittal Number 11-23.~~ Emergency Medical Transportation

1. Qualifying emergency ambulance service providers assessed a fee as outlined in LAC 48:I.4001.E.1.a-b shall receive enhanced reimbursement for emergency ground ambulance transportation services rendered during the quarter through the Supplemental Payment Program described in the Medicaid State Plan.

2. Effective for dates of service on or after July 1, 2019, qualifying emergency ambulance service providers assessed a fee as outlined in LAC 48:I.4001.E.1.a-d shall receive enhanced reimbursement for non-emergency ground ambulance transportation services rendered during the quarter through the Supplemental Payment Program described in the Medicaid State Plan.

B. - B.4. ...

C. Payment Methodology

1. Payment will include non-emergency ground ambulance services after July 1, 2019. The enhanced reimbursement to each qualifying emergency ground ambulance service provider shall not exceed the sum of the difference between the Medicaid payments otherwise made to these providers for the provision of emergency and non-emergency ground ambulance transportation services and the average amount that would have been paid at the equivalent community rate.

2. - 2.a. ...

3. The specific methodology to be used in establishing the enhanced reimbursement payment for ambulance providers is as follows.

a. The department shall identify Medicaid ambulance service providers that qualify to receive enhanced reimbursement Medicaid payments for the provision of emergency and non-emergency ground ambulance transportation services.

b. For each Medicaid ambulance service provider identified to receive enhanced reimbursement Medicaid payments, the department shall identify the emergency and non-emergency ground ambulance transportation services for which the provider is eligible to be reimbursed.

c. For each Medicaid ambulance service provider described in Subparagraph C.3.a of this Section, the department shall calculate the reimbursement paid to the provider for the

provision of emergency and non-emergency ground ambulance transportation services identified under Subparagraph C.3.b of this Section.

d. ...

e. For each Medicaid ambulance service provider described in Subparagraph C.3.a of this Section, the department shall subtract an amount equal to the reimbursement calculation for each of the emergency and non-emergency ground ambulance transportation services under Subparagraph C.3.c of this Section from an amount equal to the amount calculated for each of the emergency and non-emergency ground ambulance transportation services under Subparagraph C.3.d of this Section.

f. For each Medicaid ambulance service provider described in Subparagraph C.3.a of this Section, the department shall calculate the sum of each of the amounts calculated for emergency and non-emergency ground ambulance transportation services under Subparagraph C.3.e. of this Section.

g. - h. ...

D. Effective Date of Payment

1. The enhanced reimbursement payment shall be made effective for emergency ground ambulance transportation services provided on or after August 1, 2016, and for non-emergency ground transportation services provided after July 1, 2019. This

payment is based on the average amount that would have been paid at the equivalent community rate.

2. After the initial calculation for fiscal year 2015-2016 for emergency ground ambulance transportation services and after the initial calculation for fiscal year 2019-2020 for non-emergency ground ambulance transportation services, the department will rebase the equivalent community rate using adjudicated claims data for services from the most recently completed fiscal year. This calculation may be made annually but shall be made no less than every three years.

E. - E.1. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1890 (November 2016), amended LR:45

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

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this

proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

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

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since this proposed Rule increases payments to providers for the same services they already render.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The

deadline for submitting written comments is at 4:30 p.m. on September 29, 2019.

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 September 9, 2019. 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 September 26, 2019 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 September 9, 2019. 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.

Rebekah E. Gee MD, MPH

Secretary



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To: The Honorable Fred H. Mills, Jr. Chairman, Senate Health & Welfare Committee
The Honorable Frank A. Hoffmann, Chairman, House Health & Welfare Committee

From: *By: Candy Rivera for*
Rebekah E. Gee, MD, MPH
Secretary

Re: Second Report on Proposed Amendments to LAC 50.V.954 Inpatient Hospital Services Reimbursement Methodology Outlier Pool Rate Increase

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Hospital Licensing Standards rule amendment.

A Notice of Intent on the proposed amendments was published in the August 20, 2019 issue of the *Louisiana Register* (LR 45:1108). No written comments or 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, 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 August 20, 2019, Notice of Intent when it is published as a final rule in the November 20, 2019, issue of the *Louisiana Register*.

Should you have any questions or need additional information, please contact Jen Katzman, Medicaid Deputy Director, at Jennifer.Katzman@la.gov.

Cc: Jen Katzman, Deputy Medicaid Director, Department of Health
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Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Inpatient Hospital Services Reimbursement Methodology Outlier Pool Rate Increase (LAC 50:V.954)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:V.954 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.

House Concurrent Resolution 5 (HCR 5) of the 2019 Regular Session of the Louisiana Legislature directed the Department of Health, Bureau of Health Services Financing to set the catastrophic outlier pool aggregate payment amount in Medical Assistance Program to be no less than fifty percent of the amount of the total hospital outlier claims submitted with dates of service in state fiscal year 2017-2018. In order to comply with the requirements of HCR 5, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to increase outlier pool payments (*Louisiana Register*, Volume 45, Number 7). This proposed Rule is being promulgated in order to continue the provisions of the July 1, 2019 Emergency Rule.

Title 50

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

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§954. Outlier Payments

A. - I.2. ...

J. Effective on or after July 1, 2019, the outlier pool for admissions during SFY 2019 and subsequent state fiscal years shall cover eligible claims and shall not exceed \$21,092,179 annually. Payment shall be the costs of each hospital's eligible claims less the prospective payment, divided by the sum of all eligible claims costs in excess of payments, multiplied by \$21,092,179.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:519 (March 2010), amended LR 39:3096 (November 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services

(CMS), if it is determined that submission to CMS for review and approval is required.

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

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

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since this proposed Rule increases payments to providers for the same services they already render.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on September 29, 2019.

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 September 9, 2019. 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 September 26, 2019 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 September 9, 2019. 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.

Rebekah E. Gee MD, MPH

Secretary