




State of Louisiana
Louisiana Department of Health
Office of the Secretary

October 10, 2024

Via Statutorily Prescribed Email

To: The Honorable Patrick McMath, Chairman, Senate Health & Welfare Committee
The Honorable Dustin Miller, Chairman, House Health & Welfare Committee

From: Michael Harrington, MBA, MA
Secretary 

Re: Second Report to Proposed Amendments to LAC 50:I.3113 – Managed Care for Physical and Behavioral Health – Hospital Directed Payments

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the Proposed Amendments to Managed Care for Physical and Behavioral Health – Hospital Directed Payments, LAC 50:I.3113.

A Notice of Intent on the proposed amendments was published in the August 20, 2024 issue of the *Louisiana Register* (LR 50:1175). No written comments were received and there was no request for a public hearing 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. 49:966B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the August 20, 2024 Notice of Intent when it is published as a final rule in the November 20, 2024 issue of the *Louisiana Register*.

Please contact Tizi Robinson, Tizi.Robinson@la.gov, and Debbie Gough, Debbie.Gough@la.gov, if you have any questions or require additional information about this matter.

Cc: Kimberly Sullivan, Medicaid Director, LDH
Brian Bennett, Medicaid Deputy Director, LDH
Catherine Brindley, Medicaid Program Manager, LDH
Bethany Blackson, Chief of Staff, LDH
Andrea Trantham, Editor, *Louisiana Administrative Code*, Office of the State Register

NOTICE OF INTENT
Department of Health
Bureau of Health Services Financing

Managed Care for Physical and Behavioral Health
Hospital Directed Payments
(LAC 50:I.3113)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:I.3113 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 Medicaid managed care organizations (MCOs) to update and align language in the administrative Rule with the preprints that are approved by the Department of Health and Human Services, Centers for Medicare and Medicaid Services that qualified hospitals with a balance owed as a result of reconciliation shall pay the amounts owed to the MCOs or the department.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part I. Administration
Subpart 3. Managed Care for Physical and
Behavioral Health

Chapter 31. General Provisions

§3113. Directed Payments

A. Hospital Directed Payments

1. - 6.b....

7. If a qualifying hospital that is subject to a reconciliation will not be participating in a directed payment arrangement in the future, the qualified hospital shall pay all amounts owed to LDH or the MCO, if any, within 30 calendar days' notice of the amount owed, in accordance with departmental requirements.

a. In addition to all other available remedies, LDH or the MCOs has the authority to offset all amounts owed by a qualifying hospital due to a reconciliation against any payment owed to the qualifying hospital, including, but not limited to, any payment owed by the MCO or LDH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:245 and Title XIX of the Social Security Act

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:264 (February 2023), amended LR 49:1566 (September 2023), LR 50:

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

Poverty Impact Statement

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

Small Business Analysis

In compliance with the Small Business Protection Act, 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.

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 Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on September 30, 2024.

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, September 9, 2024. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on September 26, 2024 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, 2024. 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.

Michael Harrington, MBA, MA
Secretary

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

**RULE TITLE: Managed Care for Physical and
Behavioral Health—Hospital Directed Payments**

**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 24-25. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 24-25 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule amends the provisions governing Medicaid managed care organizations (MCOs) to update and align language in the administrative rule with the preprints that are approved by the Department of Health and Human Services, Centers for Medicare and Medicaid Services that qualified hospitals with a balance owed as a result of reconciliation shall pay the amounts owed to the MCOs or the department.

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

It is anticipated that implementation of this proposed rule will have no impact on federal revenue collections for FY 24-25. It is anticipated that \$270 will be collected in FY 24-25 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 Medicaid managed care organizations (MCOs) to update and align language in the administrative rule with the preprints that are approved by the Department of Health and Human Services, Centers for Medicare and Medicaid Services that qualified hospitals with a balance owed as a result of reconciliation shall pay the amounts owed to the MCOs or the department. Implementation of this rule is not anticipated to result in any costs to providers in FY 24-25, FY 25-26, or FY 26-27.

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

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

Kimberly Sullivan, JD
Medicaid Executive Director
2408#059

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office




State of Louisiana
Louisiana Department of Health
Office of the Secretary

October 10, 2024

Via Statutorily Prescribed Email

To: The Honorable Patrick McMath, Chairman, Senate Health & Welfare Committee
The Honorable Dustin Miller, Chairman, House Health & Welfare Committee

From: Michael Harrington, MBA, MA
Secretary 

Re: Second Report to Proposed Amendments to LAC 50:XXIX.991 – Pharmacy Benefits Management Program – Vaccine Administration and Fees

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the Proposed Amendments to Pharmacy Benefits Management Program – Vaccine Administration and Fees, LAC 50:XXIX.991.

A Notice of Intent on the proposed amendments was published in the August 20, 2024 issue of the *Louisiana Register* (LR 50:1176). No written comments were received and there was no request for a public hearing 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. 49:966B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the August 20, 2024 Notice of Intent when it is published as a final rule in the November 20, 2024 issue of the *Louisiana Register*.

Please contact Sue Fontenot, Sue.Fontenot@la.gov, if you have any questions or require additional information about this matter.

Cc: Kimberly Sullivan, Medicaid Director, LDH
Brian Bennett, Medicaid Deputy Director, LDH
Catherine Brindley, Medicaid Program Manager, LDH
Selena Sims, Medicaid Program Manager, LDH
Bethany Blackson, Chief of Staff, LDH
Andrea Trantham, Editor, *Louisiana Administrative Code*, Office of the State Register

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Pharmacy Benefits Management Program Vaccine Administration and Fees (LAC 50:XXIX.991)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XXIX.991 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 U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) recommended that the Department of Health, Bureau of Health Services Financing clarify language in the Medicaid State Plan regarding the inclusion of vaccine counseling as a pharmacy benefit under the Medical Assistance Program, when the criteria is met and documented. The department proposes to amend the provisions governing the Pharmacy Benefits Management Program in order to align the language in the *Louisiana Administrative Code* relative to vaccine administration and fees for Medicaid coverage with the CMS-approved State Plan amendment.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXIX. Pharmacy

Chapter 9. Methods of Payment

Subchapter H. Vaccines

§991. Vaccine Administration Fees

A. Reimbursement to pharmacies for immunization administration (intramuscular, subcutaneous or intranasal) performed by qualified pharmacists, is a maximum of \$15.22. Counseling for vaccines as a pharmacy benefit, when the criteria is met and documented, is a maximum of \$19.72.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1783 (August 2010), amended LR 40:82 (January 2014), amended by the Department of Health, Bureau of Health Services, Financing, LR 43:1555 (August 2017), amended LR 46:345 (March 2020), LR 47:887 (July 2021), LR 50:

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

Poverty Impact Statement

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

Small Business Analysis

In compliance with the Small Business Protection Act, 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.

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 Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on September 30, 2024.

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 September 9, 2024. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on September 26, 2024 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, 2024. 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.

Michael Harrington, MBA, MA
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Pharmacy Benefits Management Program—Vaccine Administration and Fees

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

It is anticipated that this proposed rule will have a programmatic fiscal impact of \$874,709 for FY 24-25, \$847,439 for FY 25-26, and \$847,439 for FY 26-27. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 24-25 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule amends the provisions governing the Pharmacy Benefits Management Program in order to align the language in the Louisiana Administrative Code relative to vaccine administration and fees for Medicaid coverage with the CMS-approved State Plan amendment.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$1,797,772 FY 24-25, \$1,797,502 for FY 25-26, and \$1,797,502 for FY 26-27. It is anticipated \$270 will be collected in FY 24-25 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 Pharmacy Benefits Management Program in order to align the language in the Louisiana Administrative Code relative to vaccine administration and fees for Medicaid coverage with the CMS-approved State Plan amendment. Implementation of this proposed rule will result in increased Medicaid payments to pharmacy providers, and small businesses of approximately \$2,644,941 in FY 24-25, \$2,644,941 in FY 25-26, and \$2,644,941 in FY 26-27.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Kimberly Sullivan, JD
Medicaid Executive Director
2408#060

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office