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Department of Health  
Bureau of Health Services Financing  
and  
Office of Aging and Adult Services

Public Hearing—Substantive Changes to Proposed Rule  
Home and Community-Based Services Waivers  
Adult Day Health Care Waiver  
Direct Support Worker Wages and Bonus Payments  
(LAC 50:XXI.Chapter 29)

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 of Aging and Adult Services published a Notice of Intent in the September 20, 2022 edition of the *Louisiana Register* (LR 48:2416-2418) to adopt LAC 50:XXI.Chapter 29 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Notice of Intent proposed to continue the provisions of the July 31, 2022 Emergency Rule which adopted provisions governing reimbursement in the Adult Day Health Care (ADHC) Waiver in order to establish a direct wage floor and workforce bonus payments for direct support workers at ADHC centers along with audit procedures and sanctions. Upon further discussion with various stakeholders, the department has determined that revisions are necessary to the provisions governing the bonus payments approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) under section 9817 of the American Rescue Plan Act of 2021.

Taken together, all of these revisions will closely align the proposed Rule with the department's original intent and the concerns brought forth during subsequent discussions with stakeholders relative to the Notice of Intent as originally published.

## **Title 50**

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

#### **Part XXI. Home and Community-Based Services Waivers**

##### **Subpart 3. Adult Day Health Care Waiver**

#### **Chapter 29. Reimbursement**

##### **§2901. Adult Day Health Care (ADHC) Direct Support Worker**

##### **Wages, Other Benefits, and Workforce Bonus Payments**

A. - A.5. ...

B. Establishment of Direct Support Worker Workforce Bonus Payments

1. ADHC providers who provided services from April 1, 2021 to October 31, 2022 shall receive bonus payments of \$300 per month for each ADHC direct support worker that worked with participants for those months.

2. The ADHC direct support worker who provided services from April 1, 2021 to October 31, 2022 to participants must receive at least \$250 of this \$300 monthly bonus payment paid to the provider. This bonus payment is effective for all affected ADHC direct support workers of any working status, whether full-time or part-time.

3. - 4. Repealed.

C. Audit Procedures for ADHC Direct Support Worker Wage Floor, Other Benefits, and Workforce Bonus Payments

1. - 5.b ...

D. Sanctions for ADHC Direct Support Worker Wage Floor, Other Benefits and Workforce Bonus Payments

1. ...

a. failure to pass 70 percent of the ADHC provider rate increases directly to the ADHC direct support workers in the form of a floor minimum of \$9 per hour and in other wage and non-wage benefits and/or the \$250 monthly bonus payments;

b. the number of employees identified that the ADHC provider has not passed 70 percent of the ADHC provider rate increases directly to the ADHC direct support workers in the form of a floor minimum of \$9 per hour and in other wage and non-wage benefits and/or the \$250 monthly bonus payments;

c. the persistent failure to not pass 70 percent of the ADHC provider rate increases directly to the ADHC direct support workers in the form of a floor minimum of \$9 per hour and in other wage and non-wage benefits and/or the \$250 monthly bonus payments; or

d. ...

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 of Aging and Adult Services, LR 49:

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.

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 these substantive changes to the proposed Rule. A public hearing on the substantive changes to the proposed Rule is scheduled for Tuesday, February 28, 2023 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m., March 1, 2023.

Dr. Courtney N. Phillips

Secretary