

POTPOURRI

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

Public Hearing-Substantive Changes to Proposed Rule
Personal Care Services-Long Term
Direct Service Worker Wages and Bonus Payments
(LAC 50:XV.12917 and 12921)

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 48:2438-2440) to amend LAC 50:XV.12917 and adopt 12921 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 amended and adopted provisions governing LT-PCS in order to establish a wage floor and workforce bonus payments for direct service workers 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 XV. Services for Special Populations
Subpart 9. Personal Care Services

Chapter 129 Long Term Care

§12917. Reimbursement

A. - B. ...

C. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:253 (February 2008), LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:1901 (September 2009), LR 36:1251 (June 2010), LR 37:3267 (November 2011), LR 39:1780 (July 2013), LR 42:904 (June 2016), amended by the Department of Health, Bureau of

Health Services Financing and the Office of Aging and Adult Services, LR:47:594 (May 2021), LR 49:

§12921. Direct Service Worker Wages, Other Benefits, and Workforce Bonus Payments

A. - A.5. ...

B. Establishment of Direct Service Worker Workforce Bonus Payments

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

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

3. - 4. Repealed.

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

1. - 5.b. ...

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

1. The LT-PCS provider will be subject to sanctions or penalties for failure to comply with this Rule or with

requests issued by LDH pursuant to this Rule. The severity of such action will depend upon the following factors:

a. failure to pass 70 percent of the LT-PCS provider rate increases directly to the DSWs 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 LT-PCS provider has not passed 70 percent of the LT-PCS provider rate increases directly to the DSWs 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 LT-PCS provider rate increases directly to the LT-PCS DSWs 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:

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