

POTPOURRI

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

Public Hearing-Substantive Changes To Proposed Rule
Home and Community-Based Services Waivers
Residential Options Waiver
Direct Service Worker Wages and Bonus Payments
(LAC 50:XXI.16903 and 16905)

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 published a Notice of Intent in the September 20, 2022 edition of the *Louisiana Register* (LR 48:2425-2428) to amend LAC 50:XXI.16903 and adopt §16905 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Notice of Intent proposed to amend and adopt provisions governing reimbursement in the Residential Options Waiver in order to establish workforce bonus payments for direct service workers and support coordination providers along with audit procedures and sanctions. Upon further discussion with various stakeholders, the department published a Potpourri announcing substantive revisions to the provisions of the September 20, 2022 Notice of Intent (*Louisiana Register*, Volume 49, Number 1). The department subsequently decided not

to proceed with the substantive revisions proposed in the January 20, 2023 Potpourri.

This Potpourri announces substantive changes to the provisions proposed in the September 20, 2022 Notice of Intent.

Taken together, all of these revisions to the September 20, 2022 Notice of Intent will closely align the proposed Rule with the department's original intent and address 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 13. Residential Options Waiver

Chapter 169. Reimbursement

§16903. Direct Service Worker Wages and Bonus Payments

A. - A.5. ...

B. Establishment of Direct Service Worker Workforce Bonus Payments

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

2. The direct service worker who provided services to participants from April 1, 2021 to October 31, 2022 must receive at least \$250 of this \$300 bonus payment paid to the

provider. This bonus payment is effective for all eligible direct service workers of any working status, whether full-time or part-time.

3. Bonus payments will end October 31, 2022.

4. ...

5. - 5.b. Repealed.

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

1. ...

a. - d. Repealed.

2. 5.b. ...

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

1. The 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. Direct Service Worker Wage Floor

i. failure to pay I/DD HCBS direct service workers the wage floor minimum of \$9 per hour;

ii. the number of I/DD HCBS direct service workers identified as having been paid less than the wage floor minimum of \$9 per hour; or

iii. the persistent failure to pay I/DD HCBS direct service workers the wage floor minimum of \$9 per hour;

b. Direct Service Worker Workforce Bonus Payments

i. failure to pay eligible I/DD HCBS direct service workers the \$250 monthly workforce bonus payments;

ii. the number of eligible I/DD HCBS direct service workers who are identified as having not been paid the \$250 monthly workforce bonus payments; or

iii. the persistent failure to pay wage eligible I/DD HCBS direct service workers the \$250 monthly workforce bonus payments; or

c. failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this Rule.

d. 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 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental

Disabilities, LR 41:2169 (October 2015), 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 48:42 (January 2022), LR 49:

§16905. Support Coordination

A. Establishment of Support Coordination Workforce Bonus Payments

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

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

3. - 4. Repealed.

B. Audit Procedures for Support Coordination Workforce Bonus Payments

1. - 5.b. ...

C. Sanctions for Support Coordination Workforce Bonus Payments

1. The support coordination 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 pay support coordination workers the \$250 monthly workforce bonus payments;
- b. the number of employees identified as having been paid less than the \$250 monthly workforce bonus payments;
- c. the persistent failure to pay the \$250 monthly workforce 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 for Citizens with Developmental Disabilities, LR 48:

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 Thursday, April 27, 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., May 1, 2023.

Dr. Courtney N. Phillips

Secretary