

provider's ability to provide the same level of service as described in HCR 170, since this proposed Rule provides additional financial support which may increase the hiring ability of home health agencies.

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 November 29, 2023.

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 November 9, 2023. 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 November 28, 2023 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 November 9, 2023. 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.

Stephen R. Russo, JD
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Home Health Program American Rescue Plan Act

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

It is anticipated that implementation of this proposed rule will result in estimated programmatic costs of approximately \$961,020 for FY 23-24 and \$2,883,750 for FY 24-25. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 23-24 for the state's administrative expense for promulgation of this proposed and final rule.

This proposed rule amends the provisions in the Home Health Program governing recruitment and retention payments funded under the American Rescue Plan Act of 2021 (ARPA) for nurses that provide extended home health services to beneficiaries under the age of 21 who are in a Medicaid waiver program. These payments were due to expire in April 2024; however, the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services made the decision to extend the funding for these services under ARPA through March 2025.

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

It is anticipated that implementation of this proposed rule will increase federal revenue collections by approximately \$961,020 for FY 23-24 and \$2,883,750 for FY 24-25. It is anticipated that \$270 will be collected for the federal share of the expense for promulgation of the proposed and 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 in the Home Health Program governing recruitment and retention payments funded under the American Rescue Plan Act of 2021 (ARPA) for nurses that provide extended home health services to beneficiaries under the age of 21 who are in a Medicaid waiver program. These payments were due to expire in April 2024; however, the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services made the decision to extend the funding for these services under ARPA through March 2025. This proposed rule continues the administrative fee home health agencies receive to make recruitment and retention payments to nurses which may reduce the beneficiaries' waiting time to receive extended home health services and increase the percentage of prior authorized nursing hours that are filled. Implementation of this proposed rule is anticipated to increase expenditures for home health services by approximately \$1,921,500 for FY 23-24 and \$5,767,500 for FY 24-25.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule continues the administrative fee provided under ARPA to home health agencies for recruitment and retention payments to nurses that provide extended home health services to pediatric Medicaid waiver participants, which will make it easier to hire and retain nurses to provide these services.

Kimberly Sullivan, JD
Interim Medicaid Executive Director
2310#047

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Medicaid Eligibility
Incurred Medical and Remedial Care Expenses
(LAC 50:III.941)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:III.941 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.

Title 42 of the Code of Federal Regulations Part 435 Subparts H and I requires that income assessments of individuals who are institutionalized and enrolled in Medicaid or receiving home and community-based services furnished under a waiver must deduct certain medical and remedial care expenses incurred for their care, subject to the reasonable limits, from the individual's income in the calculation of patient liability to the institution. In compliance with 42 C.F.R. Part 435 Subparts H and I, the Department of Health, Bureau of Health Services Financing, proposes to adopt provisions governing incurred medical and remedial care expenses in the determination of financial eligibility for the Medical Assistance Program in order to deduct expenses incurred for necessary medical and remedial care, subject to the reasonable limits, from the individual's income when calculating patient liability to an institution and to limit the time institutions have to report these expenses.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 1. General Administration

Chapter 9. Financial Eligibility

Subchapter D. Incurred Medical

§941. Incurred Medical and Remedial Care Expenses

A. In accordance with 42 C.F.R. Part 435 Subparts H and I, certain medical and remedial care expenses incurred by institutionalized individuals and individuals receiving home and community-based services furnished under a waiver, subject to the reasonable limits specified herein, are deducted from the individual's income in the calculation of patient liability.

B. Reasonable limits imposed are:

1. For medically necessary care, services, and items not paid under the Medicaid State Plan or, if covered under the Medicaid State Plan, denied due to service limitations.

a. The medical or remedial care must be:

- i. recognized under state law;
- ii. medically necessary as verified by an independent licensed physician or medical director; and
- iii. incurred no earlier than three months preceding the month in which it is reported to the state; and

b. The medical or remedial care cannot be:

i. for cosmetic or elective purposes, except when medically necessary as verified by an independent licensed physician or medical director; and/or

ii. for payment of a medical or dental service plan that has not been approved by the Department of Insurance in accordance with the Louisiana Insurance Code, Title 22 of the *Louisiana Revised Statutes*.

2. The deduction for medical and remedial care expenses that were incurred as a result of imposition of transfer of assets penalty period is limited to \$0.

3. The deduction for medical and remedial care expenses that were incurred as a result of the individual's equity interest in the home exceeding the limit established under 42 U.S.C. §139p(f) is limited to \$0.

4. The deduction for medical or remedial care expenses that were incurred during a period when the individual is not subject to patient liability is limited to \$0.

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 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 may have a negative impact on family functioning, stability and autonomy as described in R.S. 49:972 as it may result in some incurred medical and

remedial care expenses not being submitted by providers in a timely enough manner to be deducted from the patient's liability calculation.

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 may have a negative impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it may result in some incurred medical and remedial care expenses not being submitted by providers in a timely enough manner to be deducted from the patient's liability calculation.

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 November 29, 2023.

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 November 9, 2023. 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 November 28, 2023 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 November 9, 2023. 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.

Stephen R. Russo, JD
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Medicaid Eligibility
Incurred Medical and Remedial Care Expenses**

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

It is anticipated that implementation of this proposed rule may have an indeterminable savings for FY 23-24, FY 24-25, and FY 25-26. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 23-24 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule adopts provisions governing incurred medical and remedial care expenses for beneficiaries who are institutionalized and enrolled in Medicaid or receiving home and community-based services furnished under a waiver in order to deduct certain medical and remedial care expenses incurred for their care, subject to the reasonable limits, from the individual's income in the calculation of patient liability to an institution, in compliance with Title 42 of the Code of Federal Regulations Part 435 Subparts H and I, and to limit the amount of time institutions have to report these expenses to three months after they occurred.

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

Implementation of this proposed rule may result in an indeterminable reduction on revenue collections for FY 23-24, FY 24-25, and FY 25-26. It is anticipated that \$324 will be collected in FY 23-24 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 adopts provisions governing incurred medical and remedial care expenses for beneficiaries who are institutionalized and enrolled in Medicaid or receiving home and community-based services furnished under a waiver in order to deduct certain medical and remedial care expenses incurred for their care, subject to the reasonable limits, from the individual's income in the calculation of patient liability to an institution, in compliance with Title 42 of the Code of Federal Regulations Part 435 Subparts H and I, and to limit the amount of time institutions have to report these expenses to three months after they occurred. This proposed rule will impact beneficiaries if some medical and remedial care expenses are not reported in a timely manner and are not deducted from the patient's liability calculation. Providers will also be impacted since they will now have a three-month time limit for reporting expenses to Medicaid. Implementation of this proposed rule will have no fiscal impact to providers or small businesses, but the timely deduction of incurred medical expenses may result in an indeterminable savings to the Medicaid program for FY 23-24, FY 24-25, and FY 25-26.

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

This rule has no known effect on competition and employment.

Kimberly Sullivan, JD
Interim Medicaid Executive Director
2310#048

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

**Medical Transportation Program
Emergency Medical Transportation
(LAC 50:XXVII.Chapter 3)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XXVII.Chapter 3 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) requires reimbursement for emergency ambulance services to transition from the Full Medicaid Pricing program to an approved federal supplemental payment program by July 1, 2023. The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing reimbursement in the Medical Transportation Program in order to align the reimbursement rates established for emergency ambulance services and providers with current practice for Medicaid managed care and fee-for-service (*Louisiana Register*, Volume 49, Number 5). The department subsequently promulgated a Notice of Intent to continue the provisions of the July 1, 2023 Emergency Rule (*Louisiana Register*, Volume 49, Number 6). After further discussion with various stakeholders, the department determined that it was necessary to abandon the June 20, 2023 Notice of Intent and promulgated an Emergency Rule in order to amend the provisions of the July 1, 2023 Emergency Rule (*Louisiana Register*, Volume 49, Number 10). This proposed Rule is being promulgated to continue the provisions of the July 1, 2023 and September 11, 2023 Emergency Rules.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXVII. Medical Transportation Program

Chapter 3. Emergency Medical Transportation

Subchapter A. Reserved.

Subchapter B. Ground Transportation

§325. Reimbursement

A. The Medicaid reimbursement for ground ambulance services is the rate established in the state fee schedule for emergency ambulance transport, basic life support, advanced life support and mileage, oxygen, intravenous fluids, and disposable supplies administered during the emergency ambulance transport minus the amount paid by any liable third party coverage.

B. - J. ...

K. Effective for dates of service on or after July 1, 2023, the reimbursement rates for emergency ground ambulance transportation services shall be reimbursed based on the Louisiana Medicaid fee schedule.