

NOTICE OF INTENT

Department of Health and Hospitals  
Bureau of Health Services Financing  
and  
Office of Behavioral Health

Adult Behavioral Health Services  
(LAC 50:XXXIII.Chapters 61-67)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.Chapters 61-67 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 and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health amended the provisions governing adult behavioral health services in order to ensure the provider certification, assessment, and reevaluation criteria are in alignment with the approved Medicaid State Plan (*Louisiana Register*, Number 41, Volume 2).

The department now proposes to amend the provisions governing adult behavioral health services in order to: 1) update the service criteria for culturally competent care; 2) revise the recipient qualifications and assessment criteria; 3) remove service limitations for psychosocial rehabilitation and crisis intervention services; and 4) revise the reimbursement methodology

to reflect the integration of specialized behavioral health services into Bayou Health by establishing capitation payments to managed care organizations rather than a statewide management organization.

**Title 50**

**PUBLIC HEALTH-MEDICAL ASSISTANCE  
Part XXXIII. Behavioral Health Services  
Subpart 7. Adult Behavioral Health Services**

**Chapter 61. General Provisions**

**§6101. Introduction**

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid State Plan for behavioral health services rendered to adults with behavioral health disorders. These services shall be administered under the authority of the Department of Health and Hospitals, in collaboration with the managed care organizations (MCOs), which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery.

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 38:358 (February 2012), amended by the Department of Health and

Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

**§6103. Recipient Qualifications**

A. Individuals, 21 years of age and older, who meet Medicaid eligibility and clinical criteria established in §6103.B, shall qualify to receive adult behavioral health services.

B. - B.4. ...

C. a person with a primary diagnosis of a substance use disorder without an additional co-occurring qualifying mental health diagnosis shall not meet the criteria for acute stabilization needs.

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 38:358 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:378 (February 2015), LR 41:

**Chapter 63. Services**

**§6301. General Provisions**

A. - B. ...

C. There shall be recipient involvement throughout the planning and delivery of services.

1. Services shall be:

a. delivered in a culturally and linguistically competent manner; and

b. respectful of the individual receiving services.

2. Services shall be appropriate to individuals of diverse racial, ethnic, religious, sexual, and gender identities and other cultural and linguistic groups.

3. Services shall be appropriate for:

a. age;

b. development; and

c. education.

4. Repealed.

D. Anyone providing behavioral health services must operate within their scope of practice license.

E. ...

F. Services may be provided at a site-based facility in the community or in the individual's place of residence as outlined in the plan of care. Services shall not be furnished in an institution.

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 38:359 (February 2012), amended by the Department of Health and

Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:378 (February 2015), LR 41:

**§6303. Assessments**

A. - B. ...

C. The assessments shall be conducted by a physician or licensed mental health practitioner (LMHP) (in consultation with a psychiatrist who must complete portions of the assessment) who is trained to administer the evaluation and operates within their scope of license, and who is annually recertified. The evaluation and re-evaluation must be face-to-face using the targeting and needs-based assessment criteria designated by the department for this purpose.

D. The evaluation and re-evaluation must be finalized through the MCO using qualified personnel. Needs-based eligibility evaluations are conducted at least every 12 months.

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

HISTORICAL NOTE: Bureau of Health Services Financing, LR 38:359 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:378 (February 2015), LR 41:

**§6305. Plan of Care**

A. - B.1. ...

C. The plan of care shall be developed by an LMHP, or an interdisciplinary team that includes an LMHP, who acts as an advocate for the individual and is a source of information for the individual and the team.

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 38:359 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

**§6307. Covered Services**

A. The following behavioral health services shall be reimbursed under the Medicaid Program:

1. therapeutic services, including diagnosis and treatment, delivered by licensed mental health professionals (LMHPs);

2. - 3. ...

B. Service Exclusions. The following shall be excluded from Medicaid reimbursement:

1. components that are not provided to, or directed exclusively toward the treatment of, the Medicaid eligible individual;

2. services provided at a work site which are job tasks oriented and not directly related to the treatment of the recipient's needs;

3. any services or components in which the basic nature of which are to supplant housekeeping, homemaking, or basic services for the convenience of an individual receiving services; and

4. services rendered in an institute for mental disease.

C. - C.4. 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, Bureau of Health Services Financing, LR 38:359 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

**Chapter 65. Provider Participation**

**§6501. Provider Responsibilities**

A. Each provider of behavioral health services shall enter into a contract with one or more of the managed care organizations in order to receive reimbursement for Medicaid covered services.

B. All services shall be delivered in accordance with federal and state laws and regulations, the provisions of this

Rule, the provider manual, and other notices or directives issued by the department. The provider shall create and maintain documents to substantiate that all requirements are met.

C. ...

D. Anyone providing behavioral health services must be certified by the department, or its designee, in addition to operating within their scope of practice license..

E. Providers shall maintain case records that include, at a minimum:

1. a copy of the plan of care and treatment plan;

2. - 5. ...

6. the goals of the plan of care and/or treatment plan.

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 38:360 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:378 (February 2015), LR 41:

**Chapter 67. Reimbursement**

**§6701. Reimbursement Methodology**

A. Effective for dates of service on or after December 1, 2015, the department, or its fiscal intermediary, shall make monthly capitation payments to the MCOs.

B. The capitation rates paid to the MCOs shall be actuarially sound rates and the MCOs will determine the rates paid to its contracted providers. No payment shall be less than the minimum Medicaid rate.

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 38:360 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

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.

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.

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.

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.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to [MedicaidPolicy@la.gov](mailto:MedicaidPolicy@la.gov). Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, September 24, 2015 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. on the next business day following the public hearing.

Kathy H. Kliebert

Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES

Person  
Preparing

Statement: ZeKeidra Knight  
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Dept.: Health and Hospitals  
Office: Bureau of Health Services  
Financing

Return P.O. Box 91030  
Address: Baton Rouge, LA

Rule Title: Adult Behavioral Health Services

Date Rule Takes Effect: December 1, 2015

SUMMARY

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. The following summary statements, based on the attached worksheets, will be published in the Louisiana Register with the proposed agency rule.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)

*It is anticipated that the implementation of this proposed rule may increase programmatic costs to the state by an indeterminable amount in FY 15-16, FY 16-17 and FY 17-18. It is anticipated that \$1,188 (\$594 SGF and \$594 FED) will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final rule.*

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

*It is anticipated that the implementation of this proposed rule may increase revenue collections by an indeterminable amount in FY 15-16, FY 16-17 and FY 17-18. It is anticipated that \$594 will be collected in FY 15-16 for the federal share of the expense for promulgation of this proposed rule and the final rule.*

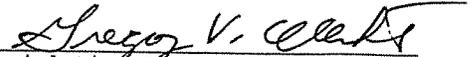
III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

*This rule proposes to amend the provisions governing adult behavioral health services in order to update the service criteria for culturally competent care, revise the recipient qualifications and assessment criteria, remove service limitations for psychosocial rehabilitation and crisis intervention services; and revise the reimbursement methodology to reflect the integration of specialized behavioral health services into Bayou Health by establishing capitation payments to managed care organizations rather than a statewide management organization. It is anticipated that the implementation of this proposed rule may have economic benefits for behavioral health services providers in FY 15-16, FY 16-17, and FY 17-18, and may increase the programmatic costs to the Medicaid Program by an indeterminable amount if the removal of service limitations on psychosocial rehabilitation and crisis intervention services increases utilization of these services and the anticipated offsetting savings from decreased inpatient hospital services utilization is not realized.*

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

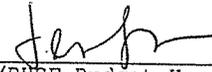
*This rule has no known effect on competition and employment.*

  
\_\_\_\_\_  
Signature of Agency Head  
or Designee

  
\_\_\_\_\_  
Legislative Fiscal Officer  
or Designee

J. Ruth Kennedy, Medicaid Director  
Typed name and Title of  
Agency Head or Designee

8/10/2015  
\_\_\_\_\_  
Date of Signature

  
\_\_\_\_\_  
DHH/BHSF Budget Head

8/10/15  
\_\_\_\_\_  
Date of Signature

FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberations on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

*This rule proposes to amend the provisions governing adult behavioral health services in order to update the service criteria for culturally competent care, revise the recipient qualifications and assessment criteria, remove service limitations for psychosocial rehabilitation and crisis intervention services; and revise the reimbursement methodology to reflect the integration of specialized behavioral health services into Bayou Health by establishing capitation payments to managed care organizations rather than a statewide management organization.*

- B. Summarize the circumstances that require this action. If the action is required by federal regulations, attach a copy of the applicable regulation.

*The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health amended the provisions governing adult behavioral health services in order to ensure the provider certification, assessment, and reevaluation criteria are in alignment with the approved Medicaid State Plan (Louisiana Register, Number 41, Volume 2).*

*The department now proposes to amend the provisions governing adult behavioral health services in order to: 1) update the service criteria for culturally competent care; 2) revise the recipient qualifications and assessment criteria; 3) remove service limitations for psychosocial rehabilitation and crisis intervention services; and 4) revise the reimbursement methodology to reflect the integration of specialized behavioral health services into Bayou Health by establishing capitation payments to managed care organizations rather than a statewide management organization.*

- C. Compliance with Act 11 of the 1986 First Extraordinary Session.

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

*It is anticipated that the implementation of this proposed rule may increase the programmatic costs to the state by an indeterminable amount in FY 15-16, FY 16-17 and FY 17-18. It is anticipated that \$1,188 will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final.*

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

- (a)      If yes, attach documentation.  
(b)   X   If no, provide justification as to why this rule change should be published at this time.

*Act 16 of the 2015 Regular Session of the Louisiana Legislature allocated funds to the Medical Vendor Program for payments to providers and thereby authorizes the expenditure of these funds. This rule change should be published at this time to ensure recipients in need of specialized behavioral health services receive comprehensive coordination of their physical and behavioral health services to improve health related outcomes which in turn reduces the overall cost to the Medicaid program.*

FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET

I. A. COST OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase or (decrease) in cost to implement the proposed action?

| COST                  | FY 15-16        | FY 16-17        | FY 17-18        |
|-----------------------|-----------------|-----------------|-----------------|
| PERSONAL SERVICES     |                 |                 |                 |
| OPERATING EXPENSES    | increase        | increase        | increase        |
| PROFESSIONAL SERVICES |                 |                 |                 |
| OTHER CHARGES         |                 |                 |                 |
| REPAIR & CONSTR.      |                 |                 |                 |
| POSITIONS (#)         |                 |                 |                 |
| <b>TOTAL</b>          | <b>increase</b> | <b>increase</b> | <b>increase</b> |

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

*In FY 15-16, \$1,188 will be spent for the state's administrative expense for promulgation of this proposed rule and the final rule.*

3. Sources of funding for implementing the proposed rule or rule change.

| Source             | FY 15-16        | FY 16-17        | FY 17-18        |
|--------------------|-----------------|-----------------|-----------------|
| STATE GENERAL FUND | increase        | increase        | increase        |
| SELF-GENERATED     |                 |                 |                 |
| FEDERAL FUND       | increase        | increase        | increase        |
| OTHER (Specify)    |                 |                 |                 |
| <b>Total</b>       | <b>increase</b> | <b>increase</b> | <b>increase</b> |

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

*Yes, sufficient funds are available to implement this rule.*

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THIS PROPOSED ACTION.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustment in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

*This proposed rule has no known impact on local governmental units.*

FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET

2. Indicate the sources of funding of the local governmental unit that will be affected by these costs or savings.

*There is no known impact on the sources of local governmental unit funding.*

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

- A. What increase or (decrease) in revenues can be expected from the proposed action?

| REVENUE INCREASE/DECREASE | FY 15-16        | FY 16-17        | FY 17-18        |
|---------------------------|-----------------|-----------------|-----------------|
| STATE GENERAL FUND        |                 |                 |                 |
| AGENCY SELF-GENERATED     |                 |                 |                 |
| RESTRICTED FUNDS*         |                 |                 |                 |
| FEDERAL FUNDS             | increase        | increase        | increase        |
| LOCAL FUNDS               |                 |                 |                 |
| <b>Total</b>              | <b>increase</b> | <b>increase</b> | <b>increase</b> |

*\*Specify the particular fund being impacted*

- B. Provide a narrative explanation of each increase or decrease in revenue shown in "A". Describe all data, assumptions, and methods used in calculating these increases or decreases.

*In FY 15-16, \$594 will be collected for the federal share of the administrative expense for promulgation of this proposed rule and the final rule.*

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effects on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.)

*This rule proposes to amend the provisions governing adult behavioral health services in order to update the service criteria for culturally competent care, revise the recipient qualifications and assessment criteria, remove service limitations for psychosocial rehabilitation and crisis intervention services; and revise the reimbursement methodology to reflect the integration of specialized behavioral health services into Bayou Health by establishing capitation payments to managed care organizations rather than a statewide management organization.*

- B. Also, provide an estimate of any revenue impact resulting from this rule or rule change to these groups.

*It is anticipated that the implementation of this proposed rule may have economic benefits for behavioral health services providers in FY 15-16, FY 16-17, and FY 17-18, and may increase the programmatic costs to the Medicaid Program by an indeterminable amount if the removal of service limitations on psychosocial rehabilitation and crisis intervention services increases utilization of these services and the anticipated offsetting savings from decreased inpatient hospital services utilization is not realized.*

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

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