

NOTICE OF INTENT

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

Home and Community-Based Behavioral Health Services Waiver  
(LAC 50:XXXIII.Chapters 81-85)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.Chapters 81-85 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 currently provide behavioral health services to Medicaid eligible children diagnosed with mental illness or a serious emotional disturbance through the Home and Community-Based Services (HCBS) Waiver as part of the coordinated behavioral health services system under the Medicaid Program.

The department now proposes to amend the provisions governing home and community-based behavioral health services to: 1) narrow the statewide management organization's scope of service administration to coordinated system of care (CSoC) services only; 2) delegate provider certification functions to

managed care organizations if the department so chooses; and 3) revise the provisions governing the recipient qualifications and the services covered under the waiver.

**Title 50**

**PUBLIC HEALTH-MEDICAL ASSISTANCE**

**Part XXXIII. Behavioral Health Services**

**Subpart 9. Home and Community-Based Services Waiver**

**Chapter 81. General Provisions**

**§8101. Introduction**

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid State Plan for behavioral health services rendered to children with mental illness and severe emotional disturbances (SED) by establishing a home and community-based services (HCBS) waiver. This HCBS waiver shall be administered under the authority of the Department of Health and Hospitals, in collaboration with the coordinated system of care (CSoC) contractor, which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery.

B. - C. ...

D. Local wraparound agencies will be the locus of treatment planning for the provision of all services. Wraparound agencies are the care management agencies for the day-to-day operations of the waiver in the parishes they serve. The wraparound agencies shall enter into a contract with the CSoC

contractor and are responsible for the treatment planning for the HCBS waiver in their areas, in accordance with 42 CFR 438.208(c).

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 38:366 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

**§8103. Recipient Qualifications**

A. The target population for the Home and Community-Based Behavioral Health Services Waiver program shall be Medicaid recipients who:

1. ...
2. have a qualifying mental health diagnosis;
3. are identified as seriously emotionally disturbed (SED), which applies to youth under the age of 18 or seriously mentally ill (SMI) which applies to youth ages 18-21;
4. - 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 38:366

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

**Chapter 83. Services**

**§8301. General Provisions**

A. - C. ...

1. The agency or individual who has the decision making authority for a child or adolescent in state custody must approve the provision of services to the recipient.

D. Children who are in need of behavioral health services shall be served within the context of the family and not as an isolated unit.

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 children and youth of diverse racial, ethnic, religious, sexual, and gender identities and other cultural and linguistic groups.

3. Services shall also be appropriate for:

a. age;

b. development; and

c. education.

4. Repealed.

E. - G.1.f. ...

2. The family member must become an employee of the provider agency or contract with the CSoc contractor and must meet the same standards as direct support staff that are not related to the individual.

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 38:367 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

**§8303. Service Plan Development**

A. The wraparound facilitator is responsible for convening the child and family team to develop the initial waiver specific plan of care within 30 days of receipt of referral from the managed care organization.

B. If new to the system, the recipient will be receiving services based upon the preliminary plan of care (POC) while the wraparound process is being completed.

C. ...

D. The wraparound agency will facilitate development and implementation of a transition plan for each recipient beginning at the age of 15 years old, as he/she approaches adulthood.

E. ...

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 38:367 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

**§8305. Covered Services**

A. The following behavioral health services shall be provided in the HCBS waiver program:

1. short-term respite care;
2. independent living/skills building;
3. youth support and training; and
4. parent support and training.
5. - 7. ...

B. Service Limitations

1. ...
3. Repealed.

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

1. - 2. ...

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 institution for mental disease.

5. 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 38:367 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

**Chapter 85. Provider Participation**

**§8501. Provider Responsibilities**

A. Each provider of home and community-based behavioral health waiver services shall enter into a contract with the CSOC contractor in order to receive reimbursement for Medicaid covered services.

B. - 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. To be certified or recertified, providers shall meet the provisions of this Rule, the provider manual and the appropriate statutes. The provider shall create and maintain documents to substantiate that all requirements are met.

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

1. a copy of the plan of care;
2. - 5. ...
6. the goals of the plan of care.

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 38:368 (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  
Phone: 342-6943

Dept.: Health and Hospitals  
Office: Bureau of Health Services  
Financing

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

Rule Title: Home and Community-Based  
Behavioral Health Services Waiver

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 \$1,080 (\$540 SGF and \$540 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 for the federal share of programmatic costs by an indeterminable amount in FY 15-16, FY 16-17, and FY 17-18. It is anticipated that \$540 will be collected in FY 15-16 for the federal share of the expense for promulgation of this proposed rule and the final rule.*

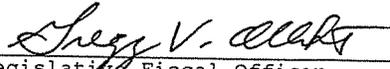
III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

*This proposed rule amends the provisions governing home and community-based behavioral health services to narrow the statewide management organization's (SMO) scope of service administration to coordinated system of care (CSoC) services only, delegate provider certification functions to managed care organizations, and revise the provisions governing the recipient qualifications and the services covered under the waiver. It is anticipated that the implementation of this proposed rule may have economic benefits to the CSoC contractor 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 administrative costs of the future CSoC contractor exceed the administrative costs of the current statewide management organization for the CSoC population. The relative cost cannot be determined at this time because a CSoC contract has not yet been awarded. The elimination of service limitations for crisis stabilization services is expected to have no costs or benefits to either the behavioral health service providers or the CSoC contractor since the services have been virtually unused by recipients.*

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

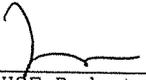
*This rule has no known effect on competition and employment.*

  
\_\_\_\_\_  
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 proposed rule amends the provisions governing home and community-based behavioral health services to narrow the statewide management organization's (SMO) scope of service administration to coordinated system of care (CSOC) services only, delegate provider certification functions to managed care organizations, and revise the provisions governing the recipient qualifications and the services covered under the waiver.*

- 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 currently provide behavioral health services to Medicaid eligible children diagnosed with mental illness or a serious emotional disturbance through the Home and Community-Based Services (HCBS) Waiver as part of the coordinated behavioral health services system under the Medicaid Program.*

*The department now proposes to amend the provisions governing home and community-based behavioral health services to: 1) narrow the statewide management organization's scope of service administration to coordinated system of care (CSOC) services only; 2) delegate provider certification functions to managed care organizations if the department so chooses; and 3) revise the provisions governing the recipient qualifications and the services covered under the waiver.*

- 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 \$1,080 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, \$1,080 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			
Total	increase	increase	increase

\*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, \$540 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 proposed rule amends the provisions governing home and community-based behavioral health services to narrow the statewide management organization's (SMO) scope of service administration to coordinated system of care (CSOC) services only, delegate provider certification functions to managed care organizations, and revise the provisions governing the recipient qualifications and the services covered under the waiver.*

- 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 to the CSOC contractor 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 administrative costs of the future CSOC contractor exceed the administrative costs of the current statewide management organization for the CSOC population. The relative cost cannot be determined at this time because a CSOC contract has not yet been awarded. The elimination of service limitations for crisis stabilization services is expected to have no costs or benefits to either the behavioral health service providers or the CSOC contractor since the services have been virtually unused by recipients.*

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.*