NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Free-Standing Birthing Centers
(LAC 50:XV Chapters 265-271)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:XV Chapters 265-271 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.

In an effort to reduce cost and facilitate access to care, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt provisions to establish coverage and reimbursement for labor and delivery services provided to Medicaid eligible pregnant women by free-standing birthing centers (FSBCs). Coverage of labor and delivery services provided by FSBCs to low-risk pregnant women will provide a non-hospital alternative which is expected to reduce the costs associated with deliveries.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 18. Free-Standing Birthing Centers

Chapter 265. General Provisions

§26501. Purpose

A. The Medicaid Program shall provide coverage and reimbursement for labor and delivery services rendered by free-standing birthing centers (FSBCs). Stays for delivery at the FSBC are typically less than 24 hours and the services rendered for labor and delivery are very limited, or non-existent, in comparison to delivery services rendered during inpatient hospital stays.

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 41:

§26503. Definitions

Birthing Center-a facility, for the primary purpose of performing low-risk deliveries, that is not a hospital or licensed as part of a hospital, where births are planned to occur away from the mother's usual residence following a low-risk pregnancy.

Low-Risk Pregnancy-a normal, uncomplicated prenatal course as determined by documentation of adequate prenatal care and the anticipation of a normal, uncomplicated labor and birth, as defined by reasonable and generally accepted criteria adopted by professional groups for maternal, fetal, and neonatal health care.

Surrounding Hospital-a hospital located within a 20 mile radius of the birthing center in urban areas and within a 30 mile radius of the birthing center in rural areas.

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 41:

Chapter 267. Services

§26701. Scope of Services

A. Free-Standing birthing centers shall be reimbursed for labor and low-risk delivery services provided to Medicaid eligible pregnant women by an obstetrician, family practitioner, or certified nurse midwife. FSBC services are appropriate when a normal, uncomplicated labor and birth is anticipated.

B. Services shall be provided by the attending practitioner from the time of the pregnant woman's admission through the birth and the immediate postpartum period.

C. Service Limitation. FSBC staff shall not administer general or epidural anesthesia services.

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 41:

Chapter 269. Provider Participation

§26901. General Provisions

A. In order to enroll to participate in the Louisiana Medicaid Program as a Medicaid provider of labor and delivery services, the free-standing birthing center must:

1. be accredited by the Commission for Accreditation of Birth Centers; and

2. be approved/certified by the Medicaid Medical Director.

B. The FSBC shall be located within a 30 minute ground travel time distance from a general acute care hospital with which the FSBC shall maintain a contractual relationship. The contractual relationship shall include a transfer agreement that allows for an emergency caesarian delivery to begin within 30 minutes of the decision a caesarian delivery is necessary.

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 41:

§26903. Staffing Requirements

A. The FSBC shall have on staff:

1. a medical director with credentials of Medical Doctor or Doctor of Osteopathy; and

2. a licensed obstetrician, family practitioner, or certified nurse midwife who shall attend each woman in labor

from the time of admission through birth and the immediate postpartum period.

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 41:

Chapter 271. Reimbursement

§27101. Reimbursement Methodology

A. Effective for dates of service on or after April 1, 2015, reimbursement for labor and delivery services rendered in a free-standing birthing center shall be equal to 90 percent of the average per diem rates of surrounding hospitals providing the same services.

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 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 may have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by allowing recipient access to birthing centers for labor and delivery services that may promote faster recovery, have less restrictions, and be less disruptive to family routines.

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 positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by reducing the financial burden on families who incur costs associated with hospital labor and delivery, extended hospital stays, and prolonged recovery.

In compliance with House Concurrent Resolution 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. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, January 29, 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: Cedric Clark
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Office: Bureau of Health Services Financing

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

Rule Title: Free-Standing Birthing Centers

Date Rule Takes Effect: April 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 implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 14-15, but will result in estimated net state general fund programmatic savings of $10,494 for FY 15-16, and $10,598 for FY 16-17 since free-standing birthing center reimbursements are less than hospital reimbursements for deliveries. The potential savings associated with free-standing birthing centers will not be realized until FY 15-16 due to the timeliness of provider enrollment and claims, and the targeted group eligible date for services. It is anticipated that $648 ($324 SGF and $324 FED) will be expended in FY 14-15 for the state's administrative expense for promulgation of this proposed Rule and the final Rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.17 percent in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

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

It is anticipated that the implementation of this proposed rule will not affect revenue collections other than the federal share of the promulgation costs for FY 14-15, but will reduce federal revenue collections by approximately $17,245 for FY 15-16 and $17,418 for FY 16-17. It is anticipated that $324 will be collected in FY 14-15 for the federal share of the expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.17 percent in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

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

This proposed Rule adopts provisions to establish coverage and reimbursement for labor and delivery services provided to Medicaid eligible women by free-standing birthing centers (FSBCs). It is anticipated that implementation of this proposed rule will reduce expenditures in the Medicaid program by approximately $27,739 for FY 15-16, and $28,016 for FY 16-17 since free-standing birthing center reimbursements are less than hospital reimbursements for deliveries.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Signature of Agency Head
or Designee

Evan Brasseaux, Staff Director
12-9-14
Legislative Fiscal Officer
or Designee

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

Date of Signature

DHH/BH&F Budget Head

12/9/14
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 adopts provisions to establish coverage and reimbursement for labor and delivery services provided to Medicaid eligible women by free-standing birthing centers.

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

In an effort to reduce cost and facilitate access to care, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt provisions to establish coverage and reimbursement for labor and delivery services provided to Medicaid eligible pregnant women by free-standing birthing centers. Coverage of labor and delivery services provided by FSBCs to low-risk pregnant women will provide a non-hospital alternative which is expected to reduce costs associated with deliveries.

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.

No. This proposed rule will result in a reduction in programmatic expenditures in the Medicaid Program by approximately $27,739 for FY 15-16 and $28,016 for FY 16-17. In FY 14-15, $648 will be expended for the state's administrative expense for promulgation of this proposed rule and the final rule.

(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) ____ If no, provide justification as to why this rule change should be published at this time.

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 14-15	FY 15-16	FY 16-17
PERSONAL SERVICES			
OPERATING EXPENSES	$648	$0	$0
PROFESSIONAL SERVICES			
OTHER CHARGES	$0	($27,739)	($28,016)
REPAIR & CONSTR.			
POSITIONS (#)			
TOTAL	**$648**	**($27,739)**	**($28,016)**

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.

The expenses reflected above are the estimated decreases in expenditures in the Medicaid Program. In FY 14-15, $648 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 14-15	FY 15-16	FY 16-17
STATE GENERAL FUND	$324	($10,494)	($10,598)
SELF-GENERATED			
FEDERAL FUND	$324	($17,245)	($17,418)
OTHER (Specify)			
Total	**$648**	**($27,739)**	**($28,016)**

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.

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 14-15**	**FY 15-16**	**FY 16-15**
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
RESTRICTED FUNDS*			
FEDERAL FUNDS	$324	($17,245)	($17,418)
LOCAL FUNDS			
Total	**$324**	**($17,245)**	**($17,418)**

***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.

The expenses reflected above are the estimated reductions in the federal share of Medicaid Program expenditures. In FY 14-15 $324 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 adopts provisions to establish coverage and reimbursement for labor and delivery services provided to Medicaid eligible pregnant women by free-standing birthing centers.

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

It is anticipated that implementation of this proposed rule will reduce Medicaid program expenditures by approximately $27,739 for FY 15-16 and $28,016 for FY 16-17 since free-standing birthing center reimbursements are less than hospital reimbursements for deliveries.

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.