

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

**Medicaid Expansion under the Affordable Care Act  
(LAC 50:I.Chapter 101-103)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:I.Chapter 101-103 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 Patient Protection and Affordable Care Act (P.L. No. 111-148), hereafter referred to as the Affordable Care Act (ACA), and §1937 of Title XIX of the Social Security Act (SSA) provides states with the option to expand Medicaid coverage to individuals from age 19 to 65 years old at or below 133 percent of the Federal Poverty Level with a 5 percent income disregard as provided in 42 CFR 435.119, hereafter referred to as the new adult group.

Under the provisions of §1937 of the SSA, state Medicaid programs have the option to provide enrollees with "benchmark" or "benchmark-equivalent" coverage based on one of three commercial insurance products, or a fourth Secretary-approved coverage option which can include the Medicaid State Plan benefit package offered in their state. "Benchmark" benefits are those that are at least equal to one of the statutorily specified benchmark plans, and "benchmark-equivalent" are those benefits that include certain specified

services, and the overall benefits are at least actuarially equivalent to one of the statutorily specified benchmark coverage packages. Federal regulations under ACA also stipulate that the packages must cover essential health benefits as designated in §1302(b) of ACA which includes ten specific benefit categories.

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) has directed states that wish to expand Medicaid coverage to the new adult group to submit State Plan amendments (SPAs) to secure approval for implementation. In compliance with CMS' directive and federal regulations, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt provisions in the Medicaid Program to:

- 1) expand Medicaid coverage to individuals from age 19 to 65 years old at or below 133 percent of the Federal Poverty Level with a 5 percent income disregard as provided in 42 CFR 435.119;
- 2) implement a Secretary-approved coverage option which incorporates the benefits and services covered under the Medicaid State Plan, including the essential health benefits as provided in §1302(b) of ACA;
- 3) use the Basic Blue Cross/Blue Shield Preferred Provider Option offered through the Federal Employees Health Benefit program as the state's benchmark benefit package;
- and 4) establish provisions for the use of the Supplemental Nutrition Assistance Program (SNAP) option for streamlined enrollment of SNAP recipients who meet eligibility requirements for the new adult group.

The department will submit the corresponding SPAs to CMS upon meeting the technical requirements

for public notice and undergoing the federally-approved tribal consultation process.

The department hereby proposes to adopt provisions in the Medicaid Program to expand Medicaid coverage to the new adult group, and to establish these provisions in Title 50, Part I of the *Louisiana Administrative Code*. This proposed Rule is also being promulgated to satisfy federal public notice requirements.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part I. Administration**

**Subpart 11. Medicaid Expansion under the Affordable Care Act**

**Chapter 101. Alternative Benefit Plan**

**§10101. General Provisions**

A. Pursuant to the Patient Protection and Affordable Care Act (P.L. No. 111-148), hereafter referred to as the Affordable Care Act (ACA), and §1937 of Title XIX of the Social Security Act, the department shall expand Medicaid coverage to individuals from age 19 to 65 years old at or below 133 percent of the Federal Poverty Level with a 5 percent income disregard as provided in 42 CFR 435.119, hereafter referred to as the new adult group.

B. Effective July 1, 2016, the department will expand Medicaid coverage to the new adult group, as defined in §1905(y)(2)(A) of Title XIX of the Social Security Act, and provide a Secretary-approved coverage option, hereafter referred to as the Alternative Benefit Plan (ABP), which incorporates the benefits and services covered under the Medicaid State Plan, including the

essential health benefits as provided in §1302(b) of ACA. The department will utilize a federally-approved benchmark benefit package to ensure that the ABP includes benefits that are appropriate to meet the needs of the new adult group.

1. *Benchmark-coverage* is based on benefits that are at least equivalent to one of the federally statutorily specified benchmark plans.

C. The Basic Blue Cross/Blue Shield Preferred Provider Option offered through the Federal Employees Health Benefit program (FEHBP) will be the benchmark plan used to design the ABP for the state.

D. The ABP shall provide coverage of essential health benefits pursuant to federal regulations in §1302(b) of ACA.

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 42:

**§10103. Benefits and Services**

A. Minimum Essential Health Benefits. Pursuant to §1302(b) of ACA, the ABP must provide the new adult group with a benchmark benefit or benchmark-equivalent benefit package that includes the required minimum essential health benefits (EHBs) provided in Affordable Insurance Exchanges. There are 10 benefit categories and some of the categories include more than one type of benefit. The following services are considered EHBs:

1. ambulatory patient services;

2. emergency services;
3. hospitalization;
4. maternity and newborn care;
5. mental health and substance use disorder services,

including behavioral health treatment:

a. These services shall be in accordance with the Mental Health Parity and Addiction Equity Act (MHPAEA) of 2008.

6. prescription drugs;
7. rehabilitative and habilitative services and devices;
8. laboratory services;
9. preventive services and chronic disease management;

and

10. pediatric services, including oral and vision care:

a. The requirements of this service category are met through the Early and Periodic Screening, Diagnosis and Treatment Program.

B. Enrollees shall receive the full range of benefits and services covered under the ABP State Plan Amendment. The ABP package will incorporate the benefits and services covered under the Medicaid State Plan, including the essential health benefits as provided in §1302(b) of ACA.

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 42:

**Chapter 103. Supplemental Nutrition Assistance Program Enrollment Option**

**§10301. General Provisions**

A. Effective July 1, 2016, the department may use the Supplemental Nutrition Assistance Program (SNAP) option for streamlined enrollment of SNAP recipients who meet eligibility requirements for the new adult group.

B. In the event the SNAP enrollment option is used, the Medicaid program will not conduct a separate Modified Adjusted Gross Income (MAGI) based income determination on SNAP participants. The department will utilize the gross income determination provided by SNAP to make the financial eligibility determination.

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 42:

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 or

autonomy as described in R.S. 49:972 by expanding Medicaid coverage to a new targeted adult eligibility group.

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 for health care costs for certain families who may qualify under the newly eligible adult group.

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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, March 31, 2016 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.

Rebekah E. Gee MD, MPH

Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES

Person

Preparing

Statement: Dee Budgewater  
Phone: 342-1325

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

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

Rule Title: Medicaid Expansion under the  
Affordable Care Act

Date Rule Takes Effect: July 1, 2016

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 estimated that the implementation of the proposed rule will result in a net state general fund impact of between \$37 M in savings and \$30 M in costs over the three years reflected in the rule. This net impact includes administrative and program costs, program savings and premium tax revenues. Exclusive of premium tax revenues, it is estimated that the rule will result in a state general fund cost between \$53.5 M (\$3.8 M Total) and \$108.7 M (\$4.8 M Total) over the three years reflected in the rule. The range is largely based on a difference in the rate at which eligible individuals enroll in Medicaid and the Per Member Per Month (PMPM) cost per eligible individual. The specific net impact (SGF and Total) itemized below in this rule is based on 463,536 enrolling in Medicaid by FY 19 (of approximately 726,000 projected to be eligible), a cost per eligible individual that does not include supplemental payments (Full Medicaid Payment), a 15 percent reduction in DSH payments, a 3 percent annual growth rate for the PMPM cost, and a significant savings associated with certain current Medicaid recipients whose costs will be eligible for the enhanced federal match rate with expansion. Any changes from the assumptions could result in a material fiscal impact. It is anticipated that the implementation of this proposed rule will result in the following impact on state general funds:

**FY 15-16**

1. Estimated state general fund administrative costs of \$2,999,458;
  2. Promulgation costs of \$540 (\$270 SGF and \$270 FED) for this proposed rule and the final rule
- Total FY 15-16 cost: \$2,999,728**

**FY 16-17**

1. Estimated state general fund administrative costs of \$13,976,879;
  2. Estimated state general fund programmatic costs of \$68,388,574 for Managed Care Organization Payments;
  3. Estimated state general fund programmatic savings of \$65,956,003 for refinanced programmatic expenditures and DSH payment reductions
- Total FY 16-17 cost: \$16,409,450**  
**Total FY 16-17 net savings (including premium tax revenues): \$9,963,148**

**FY 17-18**

1. Estimated state general fund administrative costs of \$14,952,636;
  2. Estimated state general fund programmatic costs of \$158,692,263 for Managed Care Organization Payments;
  3. Estimated state general fund programmatic savings of \$139,530,614 for refinanced programmatic expenditures and DSH payment reductions
- Total FY 17-18 cost: \$34,114,285**  
**Total FY 17-18 net savings (including premium tax revenues): \$29,972,176**

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

It is anticipated that the implementation of this proposed rule will result in the following impact on revenue collections:

**FY 15-16**

- 1. Increase federal revenue collections by approximately \$7,318,130 for administrative costs;
- 2. Increase other revenue collections (provider donations through statutory dedicated funding) by approximately \$2,999,458 to fund the required state match for administrative costs;
- 3. Increase federal revenue collections by approximately \$270 for the federal share of promulgation costs for this proposed rule and the final rule

**Total FY 15-16 Revenue Collections: \$10,317,858**

**FY 16-17**

- 1. Increase federal revenue collections by approximately \$24,793,987 for administrative costs and \$1,815,174,258 for programmatic costs;
- 2. Reduce federal revenue collections by approximately \$114,981,077 for refinanced programmatic expenditures and DSH payment reductions
- 3. Increase other revenue collections (premium tax revenues) by approximately \$26,372,598 which will be used to fund the required state match for programmatic and administrative costs;

**Total FY 16-17 Revenue Collections: \$1,751,359,765**

**FY 17-18**

- 1. Increase federal revenue collections by approximately \$26,387,143 for administrative costs and \$2,271,127,904 for programmatic costs;
- 2. Reduce federal revenue collections by approximately \$236,357,740 for refinanced programmatic expenditures and DSH payment reductions
- 3. Increase other revenue collections (premium tax revenues) by approximately \$64,086,462 which will be used to fund the required state match for programmatic and administrative costs;

**Total FY 17-18 Revenue Collections: \$2,125,243,769**

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

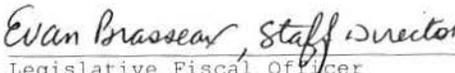
This proposed rule proposes to adopt provisions in the Medicaid Program to expand Medicaid coverage to the new adult group under the provisions of the Affordable Care Act. It is anticipated that implementation of this proposed rule will increase programmatic expenditures (inclusive of administrative costs) in the Medicaid Program by \$10,317,588 in FY 15-16, \$1,741,396,617 in FY 16-17 and \$2,095,271,593 in FY 17-18.

V. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule may have a positive effect on competition and employment. Medicaid expansion in Louisiana is expected to increase the gross state product which will foster an increase in economic activity, including an increase in revenue for providers and health care partners. The increase in payments may improve the financial standing of providers and could possibly cause an increase in employment opportunities. Medicaid expansion may also potentially increase the competition between managed care organizations and participating providers.

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

Jen Steele, Interim Medicaid Director  
Typed name and Title of  
Agency Head or Designee

  
\_\_\_\_\_  
Evan Brasseur, Staff Director  
Legislative Fiscal Officer  
or Designee

2/10/16  
\_\_\_\_\_  
Date of Signature

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

02/10/16  
\_\_\_\_\_  
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 proposes to adopt provisions in the Medicaid Program to expand Medicaid coverage to the new adult group under the provisions of the Affordable Care Act.*

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

*The Patient Protection and Affordable Care Act (P.L. No. 111-148), hereafter referred to as the Affordable Care Act (ACA), and §1937 of Title XIX of the Social Security Act (SSA) provides states with the option to expand Medicaid coverage to individuals from age 19 to 65 years old at or below 133 percent of the Federal Poverty Level with a 5 percent income disregard as provided in 42 CFR 435.119, hereafter referred to as the new adult group.*

*Under the provisions of §1937 of the SSA, state Medicaid programs have the option to provide enrollees with "benchmark" or "benchmark-equivalent" coverage based on one of three commercial insurance products, or a fourth Secretary-approved coverage option which can include the Medicaid State Plan benefit package offered in their state. "Benchmark" benefits are those that are at least equal to one of the statutorily specified benchmark plans, and "benchmark-equivalent" are those benefits that include certain specified services, and the overall benefits are at least actuarially equivalent to one of the statutorily specified benchmark coverage packages. Federal regulations under ACA also stipulate that the packages must cover essential health benefits as designated in §1302(b) of ACA which includes ten specific benefit categories.*

*The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) has directed states that wish to expand Medicaid coverage to the new adult group to submit State Plan amendments (SPAs) to secure approval for implementation. In compliance with CMS' directive and federal regulations, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt provisions in the Medicaid Program to: 1) expand Medicaid coverage to individuals from age 19 to 65 years old at or below 133 percent of the Federal Poverty Level with a 5 percent income disregard as provided in 42 CFR 435.119; 2) implement a Secretary-approved coverage option which incorporates the benefits and services covered under the Medicaid State Plan, including the essential health benefits as provided in §1302(b) of ACA; 3) use the Basic Blue Cross/Blue Shield Preferred Provider Option offered through the Federal Employees Health Benefit program as the state's benchmark benefit package; and 4) establish provisions for the use of the Supplemental Nutrition Assistance Program (SNAP) option for streamlined enrollment of SNAP recipients who meet eligibility requirements for the new adult group. The department will submit the corresponding SPAs to CMS upon meeting the technical requirements for public notice and undergoing the federally-approved tribal consultation process.*

*The department hereby proposes to adopt provisions in the Medicaid Program to expand Medicaid coverage to the new adult group, and to establish these provisions in Title 50, Part I of the Louisiana Administrative Code. This proposed Rule is also being promulgated to satisfy federal public notice requirements.*

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.

*Yes. It is anticipated that implementation of this proposed rule will increase programmatic expenditures (inclusive of administrative costs) by approximately \$10,318,128 FY 15-16, \$1,741,396,617 for FY 16-17 and \$2,095,271,593 for FY 17-18. It is anticipated that \$540 will be expended in FY 15-16 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.

*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 health care services receive the necessary 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	\$540	\$0	\$0
PROFESSIONAL SERVICES			
OTHER CHARGES	\$10,317,588	\$1,741,396,617	\$2,095,271,593
REPAIR & CONSTR.			
POSITIONS (#)			
<b>TOTAL</b>	<b>\$10,318,128</b>	<b>\$1,741,396,617</b>	<b>\$2,095,271,593</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, \$540 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	\$270	(\$9,963,148)	(\$29,972,176)
SELF-GENERATED	\$0	\$0	\$0
FEDERAL FUND	\$7,318,400	\$1,751,359,765	\$2,125,243,769
OTHER (Specify)	\$2,999,458	\$26,372,598	\$64,086,462
<b>Total</b>	<b>\$10,318,128</b>	<b>\$1,741,396,617</b>	<b>\$2,095,271,593</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	\$2,999,458	\$26,372,598	\$64,086,462
RESTRICTED FUNDS*			
FEDERAL FUNDS	\$7,318,400	\$1,751,359,765	\$2,125,243,769
LOCAL FUNDS			
<b>Total</b>	<b>\$10,317,858</b>	<b>\$1,777,732,363</b>	<b>\$2,189,330,231</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, \$270 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 proposes to adopt provisions in the Medicaid Program to expand Medicaid coverage to the new adult group under the provisions of the Affordable Care Act.*

- 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 increase programmatic expenditures (inclusive of administrative costs) in the Medicaid Program by \$10,317,588 in FY 15-16, \$1,741,396,617 in FY 16-17 and \$2,095,271,593 in FY 17-18.*

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.

*It is anticipated that the implementation of this proposed rule may have a positive effect on competition and employment. Medicaid expansion in Louisiana is expected to increase the gross state product which will foster an increase in economic activity, including an increase in revenue for providers and health care partners. The increase in payments may improve the financial standing of providers and could possibly cause an increase in employment opportunities. Medicaid expansion may also potentially increase the competition between managed care organizations and participating providers.*