



State of Louisiana
Department of Health and Hospitals
Office of the Secretary

October 6, 2015

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Chuck Kleckley, Speaker of the House
The Honorable David Heitmeier, Chair, Senate Committee on Health and Welfare
The Honorable Scott Simon, Chair, House Committee on Health and Welfare
The Honorable Jack Donahue, Chair, Senate Finance Committee
The Honorable James R. "Jim" Fannin, Chairman, House Appropriations Committee

FROM: Kathy H. Kliebert
Secretary

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Behavioral Health Services - Louisiana Bayou Health and Coordinated System of Care Waiver.

The Department published a Notice of Intent on this proposed Rule in the August 20, 2015 issue of the *Louisiana Register* (Volume 41, Number 8). A public hearing was held on September 24, 2015 at which only Department of Health and Hospitals staff were present. No oral testimony or written comments were received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the November 20, 2015 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

KHK/WJR/KAH

Attachments (3)

NOTICE OF INTENT

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

Behavioral Health Services
Louisiana Bayou Health and Coordinated System of Care Waiver
(LAC 50:XXXIII.Chapters 1-9)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.Chapters 1-9 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 amended the provisions governing the statewide management organization (SMO) in order to include the administration of behavioral health services covered under the LaCHIP Affordable Plan (Phase 5) and to revise the provisions governing recipient coverage (*Louisiana Register*, Volume 41, Number 7).

The department now proposes to amend the provisions governing behavioral health services coordinated by the SMO to:

- 1) narrow the SMO's scope of service administration to coordinated system of care (CSoC) services only;
- 2) revise the enrollment provisions;
- and 3) revise the reimbursement

methodology to reflect the integration of specialized behavioral health services into Bayou Health by establishing capitation payments for recipients enrolled in managed care organizations (MCOs). For recipients enrolled with the CSoc contractor, reimbursement shall be based upon the established Medicaid fee schedule for behavioral health services.

TITLE 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XXXIII. Behavioral Health Services
Subpart 1. Louisiana Bayou Health and Coordinated System of
Care Waiver

Chapter 1. Managed Care Organizations and Coordinated System
of Care Contractor

§101. General Provisions

A. The Medicaid Program hereby adopts provisions to establish a comprehensive system of delivery for specialized behavioral health and physical health services. These services shall be administered through the Louisiana Bayou Health and Coordinated System of Care (CSoc) Waiver under the authority of the Department of Health and Hospitals (DHH), in collaboration with managed care organizations (MCOs) and 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. The provisions of this Rule shall apply only to the services provided to Medicaid recipients/enrollees by or through an MCO or the CSoC contractor.

C. Managed care organizations shall operate as such, and the CSoC contractor shall operate as a prepaid inpatient health plan (PIHP). The MCOs were procured through a competitive request for proposal (RFP) process. The CSoC contractor was procured through an emergency process consistent with 45 CFR part 92. The MCOs and CSoC contractor shall assist with the state's system reform goals to support individuals with behavioral health and physical health needs in families, homes, communities, schools, and jobs.

D. Through the utilization of MCOs and the CSoC contractor, it is the department's goal to:

1. - 4. ...

E. The CSoC contractor shall be paid on a non-risk basis for specialized behavioral health services rendered to children/youth enrolled in the Coordinated System of Care Waiver. The MCOs shall be paid on a risk basis for specialized behavioral health and physical health services rendered to adults and children/youth.

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:

§103. Recipient Participation

A. The following Medicaid recipients shall be mandatory participants in the coordinated specialized behavioral health and physical health system of care:

1. children who are blind or have a disability and related populations, under age 18;
2. aged and related populations, age 65 and older who are not blind, do not have a disability, and are not members of the §1931 adult population;
3. children who receive foster care or adoption assistance (title IV-E), or who are in foster care or who are otherwise in an out-of-home placement;
4. children with special health care needs as defined in §1932(a);
5. Native Americans;
6. full dual eligibles (for behavioral health services only);

7. children residing in an intermediate care facility for persons with developmental disabilities (for behavioral health services only);

a. - b. Repealed.

8. all enrollees of waiver programs administered by the DHH Office for Citizens with Developmental Disabilities (OCDD) or the DHH Office of Aging and Adult Services (OAAS) (mandatory for behavioral health services only);

9. all Medicaid children functionally eligible for the CSoC;

10. adults residing in a nursing facility (for behavioral health services only);

11. supplemental security income/transfer of resources/long-term care related adults and children (for behavioral health services only); and

12. transfer of resources/long-term care adults and children (for behavioral health services only).

NOTE: Recipients qualifying for retroactive eligibility are enrolled in the waiver.

B. Mandatory participants shall be automatically enrolled and disenrolled from the MCOs or the CSoC contractor.

C. Notwithstanding the provisions of Subsection A of this Section, the following Medicaid recipients are excluded from enrollment in the MCOs and the CSoC contractor:

1. - 3. ...
4. recipients of refugee medical assistance;
5. recipients enrolled in the Spend-Down Medically Needy Program;
6. - 7. ...
8. recipients enrolled in the Take Charge Plus Program;
9. recipients enrolled in the Greater New Orleans Community Health Connection (GNOCHC) program; and
10. recipients enrolled in the Long-Term Care Medicare Co-Insurance program.

D. Any Medicaid eligible person is suspended from participation during a period of incarceration.

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 38:361 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:1286 (July 2015), LR 41:

§105. Enrollment Process

A. The MCOs and the CSoC contractor shall abide by all enrollment and disenrollment policies and procedures as outlined in the contract entered into by department.

B. The MCOs and the CSoC contractor shall ensure that mechanisms are implemented to assess each Medicaid enrollee identified as having special health care needs in order to identify any ongoing conditions that require a course of treatment or regular care monitoring. The assessment mechanism shall incorporate appropriate health care professionals.

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 38:361 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§107. Enrollee Rights and Responsibilities

A. The enrollee's rights shall include, but are not limited to the right to:

1. - 2. ...
3. appeal an MCO and CSoC contractor decision through the MCO's and CSoC contractor's internal process and/or the state fair hearing process;
4. receive a response about a grievance or appeal decision within a reasonable period of time determined by the department;
5. - 8. ...

B. The Medicaid recipient/enrollee's responsibilities shall include, but are not limited to:

1. informing their MCO or CSoC contractor of the loss or theft of their Medicaid identification card;

2. ...

3. being familiar with their MCO's or CSoC contractor's procedures to the best of his/her abilities;

4. contacting their MCO or CSoC contractor, by telephone or in writing (formal letter or electronically, including email), to obtain information and have questions clarified;

5. - 7. ...

8. accessing services only from specified providers contracted with their MCO or CSoC contractor.

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 38:361 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR: 41

Chapter 3. Managed Care Organizations and the Coordinated System of Care Contractor Participation

§301. Participation Requirements and Responsibilities

A. In order to participate in the Medicaid Program, an MCO and the CSoC contractor shall execute a contract with the department, and shall comply with all of the terms and conditions set forth in the contract.

B. MCOs and the CSoC contractor shall:

1. manage contracted services;
2. establish credentialing and re-credentialing policies consistent with federal and state regulations;
3. ensure that provider selection policies and procedures do not discriminate against particular providers that serve high-risk populations or specialize in conditions that require costly treatment;

a. Repealed.

4. maintain a written contract with subcontractors that specifies the activities and reporting responsibilities delegated to the subcontractor, and such contract shall also

provide for the MCOs' or CSOC contractor's right to revoke said delegation, terminate the contract, or impose other sanctions if the subcontractor's performance is inadequate;

5. contract only with providers of services who are licensed and/or certified and meet the state of Louisiana credentialing criteria;

6. ensure that contracted rehabilitation providers are employed by a rehabilitation agency or clinic licensed and/or certified, and authorized under state law to provide these services;

7. sub-contract with a sufficient number of providers to render necessary services to Medicaid recipients/enrollees;

8. require each provider to implement mechanisms to assess each Medicaid enrollee identified as having special health care needs in order to identify special conditions of the enrollee that require a course of treatment or regular care monitoring;

9. ensure that treatment plans or plans of care meet the following requirements:

a. are developed by the enrollee's primary care provider (PCP) with the enrollee's participation and in consultation with any specialists' providing care to the enrollee, with the exception of treatment plans or plans of care

developed for recipients in the Home and Community Based Services (HCBS) Waiver. The wraparound agency shall develop plans of care according to wraparound best practice standards for recipients who receive behavioral health services through the HCBS Waiver;

b. are approved by the MCO or CSoC contractor in a timely manner, if required;

c. are in accordance with any applicable state quality assurance and utilization review standards; and

d. allow for direct access to any specialist for the enrollee's condition and identified needs, in accordance with the contract; and

10. ensure that Medicaid recipients/enrollees receive information:

a. in accordance with federal regulations and as described in the contract and departmental guidelines;

b. on available treatment options and alternatives in a manner appropriate to the enrollee's condition and ability to understand; and

c. about available experimental treatments and clinical trials along with information on how such research can be accessed even though the Medicaid Program will not pay for the experimental treatment.

11 - 12 .c. 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 38:362 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§303. Benefits and Services

A. Benefits and services shall be rendered to Medicaid recipients/enrollees as provided under the terms of the contract and department-issued guidelines.

B. The MCO and CSoC contractor:

1. shall ensure that medically necessary services are sufficient in amount, duration, or scope to reasonably be expected to achieve the purpose for which the services are being furnished;

2. - 3.b. ...

4. shall provide benefits and services as outlined and defined in the contract and shall provide medically necessary and appropriate care to enrollees; and

C. The benefits and services provided to enrollees shall include, but are not limited to, those services specified in the contract between the MCOs and the CSoC contractor and the department.

1. ...

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 38:362 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§305. Service Delivery

A. The MCOs and CSoC contractor shall ensure that services rendered to enrollees are medically necessary, are authorized or coordinated, and are provided by professionals according to their scope of practice and licensing in the state of Louisiana.

B. ...

C. MCOs shall offer a contract to all federally qualified health centers (FQHCs), rural health clinics (RHCs), and tribal clinics. Enrollees shall have a choice of available providers in the plan's network to select from. The CSoC contractor shall be required to contract with at least one FQHC in each medical practice region of the state (according to the practice patterns within the state) if there is an FQHC which can provide substance use disorder services or specialty mental health

services under state law and to the extent that the FQHC meets the required provider qualifications.

D. MCOs and the CSoC contractor shall ensure that the recipient is involved 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.

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 38:363 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 5. Reimbursement

§501. General Provisions

A. For recipients enrolled with the CSoC contractor, reimbursement for services shall be based upon the established Medicaid fee schedule for specialized behavioral health services.

B. For recipients enrolled in one of the MCOs, the department or its fiscal intermediary shall make monthly capitation payments to the MCOs. 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.

C. 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 38:363 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 39:317 (February 2013), LR 41:

§503. Reimbursement Methodology (Reserved)

Chapter 7. Grievance and Appeals Process

§701. General Provisions

A. The MCOs and the CSoC contractor shall be required to have an internal grievance system and internal appeal process. The appeal process allows a Medicaid recipient/enrollee to challenge a decision made, a denial of coverage, or a denial of payment for services.

B. - C. ...

D. An enrollee must exhaust the MCO or the CSoC contractor grievance and appeal process before requesting a state fair hearing.

E. The MCO and CSoC contractor shall provide Medicaid enrollees with information about the state fair hearing process within the timeframes established by the department and in accordance with the state fair hearing policies.

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 38:363 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 9. Monitoring Activities

§901. General Provisions

A. The contracted MCOs and the CSoC contractor shall be accredited by an accrediting body that is designated in the contract, or agrees to submit an application for accreditation at the earliest possible date as allowed by the accrediting body. Once accreditation is achieved, it shall be maintained through the life of this agreement.

B. The MCOs and CSoC contractor shall be required to track grievances and appeals, network adequacy, access to services, service utilization, quality measure and other monitoring and reporting requirements in accordance with the contract with the department.

C. - G. 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 38:363 (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. 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



State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
September 24, 2015
9:30 a.m.

RE: Behavioral Health Services
Louisiana Bayou Health and Coordinated System of Care Waiver
Docket # 09242015-2
Department of Health and Hospitals
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on September 24, 2015 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in blue ink, appearing to read "Robert K. Andrepont", written over a horizontal line.

Robert K. Andrepont
Medicaid Policy and
Compliance Section

09-24-15

Date

DHH/BHSF PUBLIC HEARING

Topic – Behavioral Health Services Louisiana Bayou Health and Coordinated System of Care Waiver

Date – September 24, 2015

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Zekaidra Knight	628 N. 4 th St Baton Rouge, LA 70802	(225) 342. 6943	DHH BHSF
2.			
3.			
4.			
5.			
6.			

Bobby Jindal
GOVERNOR



Kathy H. Kliebert
SECRETARY

State of Louisiana
Department of Health and Hospitals
Office of the Secretary

October 6, 2015

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Chuck Kleckley, Speaker of the House
The Honorable David Heitmeier, Chair, Senate Committee on Health and Welfare
The Honorable Scott Simon, Chair, House Committee on Health and Welfare
The Honorable Jack Donahue, Chair, Senate Finance Committee
The Honorable James R. "Jim" Fannin, Chairman, House Appropriations Committee

FROM: Kathy H. Kliebert
Secretary

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Behavioral Health Services - Substance Use Disorders Services.

The Department published a Notice of Intent on this proposed Rule in the August 20, 2015 issue of the *Louisiana Register* (Volume 41, Number 8). A public hearing was held on September 24, 2015 at which only Department of Health and Hospitals staff were present. No oral testimony or written comments were received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the November 20, 2015 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

KHK/WJR/CEC

Attachments (3)

NOTICE OF INTENT

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

**Behavioral Health Services
Substance Use Disorders Services
(LAC 50:XXXIII.Chapters 141-147)**

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.Chapters 141-147 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 substance use disorders (SUD) services for children and adults through a coordinated behavioral health services system under the Medicaid Program.

The department now proposes to amend the provisions governing substance abuse services to: 1) update the terminology and service criteria; 2) revise the provisions governing provider certification; and 3) revise the reimbursement methodology for children's services to reflect the integration of specialized behavioral health services into

Bayou Health by establishing a capitated rate for recipients enrolled in one of the managed care organizations (MCOs). The non-risk reimbursement methodology will continue to be utilized for children/youth enrolled in the coordinated system of care (CSoC) through a CSoC contractor.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XXXIII. Behavioral Health Services

Subpart 15. Substance Use Disorders Services

Chapter 141. General Provisions

§14101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid State Plan for substance use disorders (SUD) services rendered to children and adults. These services shall be administered under the authority of the Department of Health and Hospitals, in collaboration with managed care organizations (MCOs) and 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. The CSoC contractor shall only manage specialized behavioral health services for children/youth enrolled in the CSoC program.

B. The SUD services rendered shall be those services which are medically necessary to reduce the disability

resulting from the illness and to restore the individual to his/her best possible functioning level in the community.

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 38:426 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§14103. Recipient Qualifications

A. Children and adults who meet Medicaid eligibility and clinical criteria shall qualify to receive medically necessary SUD services.

B. Qualifying children and adults with an identified SUD diagnosis shall be eligible to receive SUD services covered under the Medicaid State 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 38:426 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 143. Services

§14301. General Provisions

A. ...

B. SUD services are subject to prior approval by the MCO or the CSoC contractor.

C. - D. ...

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.

E. Children who are in need of SUD 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 individuals 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.

F. ...

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 38:426 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§14303. Covered Services

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

1. - B.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;

4. - 5. ...

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 38:426 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 145. Provider Participation

§14501. Provider Responsibilities

A. Each provider of SUD services shall enter into a contract with one or more of the MCOs or the CSoC contractor 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. Providers shall meet the provisions of this Rule, the provider manual and the appropriate statutes.

C. Providers of SUD services shall ensure that all services are authorized and any services that exceed established limitations beyond the initial authorization are approved for re-authorization prior to service delivery.

D. Anyone providing SUD 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.

E. Residential addiction treatment facilities shall be accredited by an approved accrediting body and maintain such accreditation. Denial, loss of or any negative change in

accreditation status must be reported to the MCO or CSoC contractor in writing within the time limit established by the department.

F. - F.6. ...

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 38:427 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 147. Reimbursement

§14701. General Provisions

A. For recipients enrolled with the CSoC contractor, reimbursement for services shall be based upon the established Medicaid fee schedule for SUD services.

B. For recipients enrolled in one of the MCOs, the department or its fiscal intermediary shall make monthly capitation payments to the MCOs. 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 38:427 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 39:3301 (December 2013), LR 41:

§14703. Reimbursement Methodology

A. Effective for dates of service on or after July 1, 2012, the reimbursement rates for outpatient SUD services provided to children/adolescents shall be reduced by 1.44 percent of the rates in effect on June 30, 2012.

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 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 or 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. 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

Bobby Jindal
GOVERNOR



Kathy H. Kliebert
SECRETARY

State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
September 24, 2015
9:30 a.m.

RE: Behavioral Health Services
Substance Use Disorders Services
Docket # 09242015-3
Department of Health and Hospitals
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on September 24, 2015 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.


Robert K. Andrepont
Medicaid Policy and
Compliance Section

09-24-15

Date

DHH/BHSF PUBLIC HEARING

Topic - Behavioral Health Services Substance Use Disorders Services

Date - September 24, 2015

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Zekeidra Knight	628 N. 4 th Street B.R. LA 70802	225.342.6943	DHH/BHSF
2.			
3.			
4.			
5.			
6.			

Bobby Jindal
GOVERNOR



Kathy H. Kliebert
SECRETARY

State of Louisiana
Department of Health and Hospitals
Office of the Secretary

October 6, 2015

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Chuck Kleckley, Speaker of the House
The Honorable David Heitmeier, Chair, Senate Committee on Health and Welfare
The Honorable Scott Simon, Chair, House Committee on Health and Welfare
The Honorable Jack Donahue, Chair, Senate Finance Committee
The Honorable James R. "Jim" Fannin, Chairman, House Appropriations Committee

FROM: Kathy H. Kliebert
Secretary

Approved for

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Children's Behavioral Health Services.

The Department published a Notice of Intent on this proposed Rule in the August 20, 2015 issue of the *Louisiana Register* (Volume 41, Number 8). A public hearing was held on September 24, 2015 at which only Department of Health and Hospitals staff were present. No oral testimony or written comments were received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the November 20, 2015 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

KHK/WJR/CEC

Attachments (3)

NOTICE OF INTENT

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

Children's Behavioral Health Services
(LAC 50:XXXIII. Chapters 21-27)

The Department of Health and Hospitals, Bureau of Health Services Financing and Office of Behavioral Health propose to amend LAC 50:XXXIII Chapters 21-27 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 adopted provisions to implement a coordinated behavioral health services system under the Louisiana Medicaid Program to provide behavioral health services to children and youth (*Louisiana Register*, Volume 38, Number 2).

The department proposes to amend the provisions governing children's behavioral health services in order 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 (MCOs) if the department so chooses; 3) establish coverage for crisis stabilization services; 4) remove the service limitations for psychosocial rehabilitation and crisis

intervention services; and 5) 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. For recipients enrolled with the CSoC contractor, reimbursement shall be based upon the established Medicaid fee schedule for behavioral health services.

Title 50

**PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XXXIII. Behavioral Health Services
Subpart 3. Children's Mental Health Services**

Chapter 21. General Provisions

§2101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid State Plan for mental health services rendered to children and youth with behavioral health disorders. These services shall be administered under the authority of the Department of Health and Hospitals, in collaboration with a managed care organizations (MCOs) and 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. The CSoC contractor shall only manage specialized behavioral health services for children/youth enrolled in the coordinated system of care.

B. The specialized behavioral health services rendered to children with emotional or behavioral disorders are those services

necessary to reduce the disability resulting from the illness and to restore the individual to his/her best possible functioning level in the community.

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 38:364 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 23. Services

§2301. General Provisions

A. All specialized behavioral health services must be medically necessary. The medical necessity for services shall be determined by a licensed mental health practitioner (LMHP) or physician who is acting within the scope of his/her professional license and applicable state law.

B. All services shall be authorized. Services which exceed the initial authorization must be approved for re-authorization prior to service delivery.

C. - C.1. ...

D. Children who are in need of specialized 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. - F. ...

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 38:364 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§2303. Covered Services

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

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

2. rehabilitation services, including community psychiatric support and treatment (CPST) and psychosocial rehabilitation;

3. crisis intervention services; and

4. crisis stabilization services.

B. Service Exclusions. The following services 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;

4. services rendered in an institute for mental disease; and

5. the cost of room and board associated with crisis stabilization.

C. - C.4. ...

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 38:364

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

Chapter 25. Provider Participation

§2501. Provider Responsibilities

A. Each provider of specialized behavioral health services shall enter into a contract with one or more of the MCOs and with the CSoC contractor for youth enrolled in the Coordinated System of Care program in order to receive reimbursement for Medicaid covered services.

B. ...

C. Providers of specialized behavioral health services shall ensure that all services are authorized and any services that exceed established limitations beyond the initial authorization are approved for re-authorization prior to service delivery.

D. Anyone providing specialized 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 or treatment plan,;
2. - 5. ...
6. the goals of the plan of care 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 38:364 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 27. Reimbursement

§2701. General Provisions

A. For recipients enrolled with the CSoC contractor, reimbursement for services shall be based upon the established Medicaid fee schedule for specialized behavioral health services.

B. For recipients enrolled in one of the MCOs, the department or its fiscal intermediary shall make monthly capitation payments to the MCOs. The capitation rates paid to 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.

1. - 3. 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 38:365 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 39:317 (February 2013), LR 41:

§2703. Reimbursement Methodology

A. Effective for dates of service on or after July 1, 2012, the reimbursement rates for the following behavioral health services provided to children/adolescents shall be reduced by 1.44 percent of the rates in effect on June 30, 2012:

1. therapeutic services;
2. rehabilitation services; and
3. crisis intervention 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 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 or 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. 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

Bobby Jindal
GOVERNOR



Kathy H. Kliebert
SECRETARY

State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
September 24, 2015
9:30 a.m.

RE: Children's Behavioral Health Services
Docket # 09242015-4
Department of Health and Hospitals
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on September 24, 2015 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in black ink, appearing to read "Robert K. Andrepont".

Robert K. Andrepont
Medicaid Policy and
Compliance Section

09-24-15

Date

DHH/BHSF PUBLIC HEARING

Topic - Behavioral Health Services Substance Use Disorders Services

Date - September 24, 2015

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. ZeKeidra Knight	628 N. 4 th Street B.R. LA 70802	225.342.6943	DHH/BHSF
2.			
3.			
4.			
5.			
6.			



State of Louisiana
Department of Health and Hospitals
Office of the Secretary

October 6, 2015

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Chuck Kleckley, Speaker of the House
The Honorable David Heitmeier, Chair, Senate Committee on Health and Welfare
The Honorable Scott Simon, Chair, House Committee on Health and Welfare
The Honorable Jack Donahue, Chair, Senate Finance Committee
The Honorable James R. "Jim" Fannin, Chairman, House Appropriations Committee

FROM: Kathy H. Kliebert
Secretary

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Home and Community-Based Behavioral Health Services Waiver.

The Department published a Notice of Intent on this proposed Rule in the August 20, 2015 issue of the *Louisiana Register* (Volume 41, Number 8). A public hearing was held on September 24, 2015 at which only Department of Health and Hospitals staff were present. No oral testimony or written comments were received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the November 20, 2015 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

KHK/WJR/RKA

Attachments (3)

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. - 2. ...
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. 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



State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
September 24, 2015
9:30 a.m.

RE: Home and Community-Based Behavioral Health Services Waiver
Docket # 09242015-5
Department of Health and Hospitals
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on September 24, 2015 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in blue ink, appearing to read "Robert K. Andrepont".

Robert K. Andrepont
Medicaid Policy and
Compliance Section

09-24-15

Date

DHH/BHSF PUBLIC HEARING

Topic – Home and Community-Based Behavioral Health Services Waiver

Date – September 24, 2015

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Zekeidra Knight	628 N. 4th St B.R. LA 70802	225.342.6943	DHH / BHSF
2.			
3.			
4.			
5.			
6.			



State of Louisiana
Department of Health and Hospitals
Office of the Secretary

October 6, 2015

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Chuck Kleckley, Speaker of the House
The Honorable David Heitmeir, Chair, Senate Committee on Health and Welfare
The Honorable Scott Simon, Chair, House Committee on Health and Welfare
The Honorable Jack Donahue, Chair, Senate Finance Committee
The Honorable James R. "Jim" Fannin, Chairman, House Appropriations Committee

FROM: Kathy H. Kliebert
Secretary *Approved for*

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Free-Standing Birthing Centers.

The Department published a Notice of Intent on this proposed Rule in the April 20, 2015 issue of the *Louisiana Register* (Volume 41, Number 4). A public hearing was held on May 28, 2015 at which the Department of Health and Hospitals staff, representatives from Birthmark, Louisiana Constituents for Safe Childbirth, and AABC Northshore Birth Options were present. Oral testimony was given and written correspondence was received regarding this proposed Rule.

As a result of the comments received on the April 20th Notice of Intent, the Department determined that it was necessary to incorporate revisions to the proposed Rule. The Department subsequently published a Substantive Changes and Public Hearing Notification Potpourri containing the non-technical, substantive changes in the August 20, 2015 issue of the *Louisiana Register* (Volume 41, Number 8). A public hearing on the substantive revisions was held on September 24, 2015 at which representatives from American College of Nurse Midwives, Birth Center of Baton Rouge, Consumer Citizens for Better Birth and the Department of Health and Hospitals staff were present. Oral testimony was given and written correspondence was received. The Department considered the comments received and determined that no additional changes were required to the Notice of Intent.

The Department anticipates adopting a revised Notice of Intent, which incorporates the non-technical, substantive revisions, as a final Rule in the November 20, 2015 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the May 28, 2015 public hearing certification;
3. the May 28, 2015 public hearing roster;
4. a copy of the Substantive Changes and Public Hearing Notification Potpourri;
5. the September 24, 2015 substantive changes public hearing certification;
6. the September 24, 2015 substantive changes public hearing attendance roster;
7. summary of all oral testimony given at the public hearings;
8. summary of all written comments received by the agency;
9. the agency's response to comments from Amy Shamburger;
10. the agency's response to comments from Dana Keren (2);
11. the agency's response to comments from Dana Keren and Latona Giwa;
12. the agency's response to comments from Dana Margaret;
13. the agency's response to comments from Dr. Steven Spedale;
14. the agency's response to comments from Jesse Bushman and Mary Lawlor (2);
15. the agency's response to comments from Jill Alliman (2);
16. the agency's response to comments from Kate Paxton;
17. the agency's response to comments from Latona Giwa;
18. the agency's response to comments from Meghan MacInnis;
19. the agency's response to comments from Melanie Weaver;
20. the agency's response to comments from Melissa Geyer (2); and
21. the agency's response to comments from Dr. Ryan Dickerson.

KHK/WJR/CEC

Attachments (21)

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 rendered to Medicaid eligible pregnant women by providers at free-standing birthing centers (FSBCs), including certified licensed midwives. 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, certified nurse midwife, or licensed 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 provider of labor and delivery services, the FSBC 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 ground travel time distance from a general acute care hospital with which the FSBC shall maintain a contractual relationship, including 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, certified nurse midwife, or licensed midwife who shall attend each woman in labor from the time of admission through birth and the immediate postpartum period.

a. A licensed midwife providing birthing services within the FSBC must:

i. have passed the national certification exam through the North American Registry of Midwives; and

ii. hold a current, unrestricted state license with the Louisiana State Board of Medical Examiners.

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 July 20, 2015, a FSBC shall be reimbursed a one-time payment for labor and delivery services at a rate equal to 90 percent of the average per diem rates of surrounding hospitals providing the same services.

1. Attending physicians shall be reimbursed for birthing services according to the published fee schedule rate

for physician services rendered in the Professional Services Program.

2. Certified nurse midwives providing birthing services within a FSBC shall be reimbursed at 80 percent of the published fee schedule rate for physician services rendered in the Professional Services Program.

3. Licensed midwives providing birthing services within a FSBC shall be reimbursed at 75 percent of the published fee schedule rate for physician services in the Professional Services Program.

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, May 28, 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



State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
May 28, 2015
9:30 a.m.

RE: Free-Standing Birthing Centers
Docket # 052815-02
Department of Health and Hospitals
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted May 28, 2015 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in black ink, appearing to read "Cedric Clark", written over a horizontal line.

Cedric Clark
Medicaid Policy and
Compliance Section

05/28/2015

Date

DHH/BHSF PUBLIC HEARING

Topic - Free - Standing Birthing Centers

Date - May 28, 2015

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Dana Keren	PO Box 791854 NOVA 70179	504-457-8332	Birthmark www.birthmarkdallas.com
2. Melissa Geyer	909 Walkers Stick Ct Covington LA 70433	985-787-1782	
3. Kristi Benwilliam	628 N 4th Street 70802	225-342-1264	DHH
4. Libby Gonzales	628 N. 4th St 70802	225-342-6884	DHH
5. Cornette Scott	608 N 4th Street Baton Rouge LA 70802	985-342-3881	DHH
6. Amy Shamburgs	11307 Tannis Rd. SI Amant La 70774	225-315-3410	LCSC Louisiana Constituents for Safe Childbirth

POTPOURRI

Department of Health and Hospitals
Bureau of Health Services Financing

Substantive Changes and Public Hearing Notification
Free-Standing Birthing Centers
(LAC 50:XV.Chapters 265-271)

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Bureau of Health Services Financing published a Notice of Intent in the April 20, 2015 edition of the *Louisiana Register* (LR 41:806-808) to adopt LAC 50:XV.Chapters 265-271. This Notice of Intent proposed to adopt provisions to establish coverage and reimbursement for labor and delivery services rendered to Medicaid eligible pregnant women by providers at free-standing birthing centers (FSBCs), including certified licensed midwives.

The department conducted a public hearing on this Notice of Intent on May 28, 2015 to solicit comments and testimony on the proposed Rule. As a result of the comments received, the department proposes to amend the provisions in §26501 and §26903 of the proposed Rule.

Taken together, all of these revisions will closely align the proposed Rule with the Department's original intent and the concerns brought forth during the comment period for the Notice of Intent as originally published. No fiscal or economic impact will result from the amendments proposed in this notice.

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 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:

Chapter 269. Provider Participation

§26903. Staffing Requirements

A. The FSBC shall have on staff:

1. a licensed obstetrician, family practitioner, certified nurse midwife, or licensed midwife who shall attend each woman in labor from the time of admission through birth and the immediate postpartum period.

a. A licensed midwife providing birthing services within the FSBC must:

i. have passed the national certification exam through the North American Registry of Midwives; and

ii. hold a current, unrestricted state license with the Louisiana State Board of Medical Examiners.

2. 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 41:

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.

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 these substantive amendments to the proposed Rule. A public hearing on these substantive changes to the 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



State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
September 24, 2015
9:30 a.m.

RE: Substantive Changes and Public Hearing Notification
Free-Standing Birthing Centers
Docket # 09242015-10
Department of Health and Hospitals
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on September 24, 2015 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in black ink, appearing to read "R. K. Andrepont".

Robert K. Andrepont
Medicaid Policy and
Compliance Section

09-24-15

Date

DHH/BHSF PUBLIC HEARING

Topic – Substantive Changes and Public Hearing Notification – Free-Standing Birthing Centers

Date – September 24, 2015

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Zekeidra Knight	628 N. 4th St B.R. LA 70802	225. 342. 6943	DHH / BHSF
2. Mekerie Weaver	P.O. Box 35 WASKINGHA LA	337-692-1828	ACNM
3. Shreer D'Se	7941 Picards Baton Rouge LA	225-324-1776	Birth Ctr Baton Rouge
4. Libby Gonzales	628 N. 4th St. BR LA 70802	225-342-6884	DHH
5. Melissa Greyer	909 Walking Stick Ct Covington LA 70433	985-789-1782	Consumer Citizens for Better Birth
6. Tamif Weaver	PO Box 736 Rehob 70455	225 266 - 3979	CAB

SUMMARY OF PUBLIC HEARING TESTIMONY

Proposed Rule: Free Standing Birthing Centers
Public Hearing Date: May 28, 2015
 September 24, 2015 (Substantive Changes Public Hearing)
Docket No. : 052815-02 (May 2015)
 092415-10 (September 2015)
Conducted By: Department of Health and Hospitals, Bureau of Health Services Financing Staff

Oral Testimony Given By	Organization Represented	Summary of Comments (April 20, 2015 Notice of Intent)
Dana Keren	Birthmark	<p>\$26901 General Provisions - When referring to the arrangement with referral hospitals, recommends deleting "contractual" and adding "collaborative" relationship with the hospital.</p> <p>\$26903 – Delete the wording "on staff" in statement "The Freestanding Birth Center shall have on staff"; delete "medical director".</p> <p>\$27101 Reimbursement Methodology – Recommends certified and licensed nurse midwives providing birthing services within a FSBC be reimbursed according to the published fee schedule rate for physician services rendered in the Professional Services program; and include recognition of, and reimbursement for, birth attendants.</p>
Melissa Geyer	American Academy of Birth Centers (AABC); Northshore Birth Options.	Opposes medical director requirement. Clinics are already subject to a myriad of other regulations and regulatory groups; recommends a baseline facility service fee in the range of \$2500; and amend reimbursement of midwives for professional services at 100%.
Oral Testimony Given By	Organization Represented	Summary of Comments (August 20, 2015 Substantive Changes Potpourri)
Sherry Daigle	Licensed Midwife	In agreement with substantive changes; Requests change from contractual to collaborative agreement.
Melanie Weaver	American College of Midwives	Suggests change from contractual agreement to collaborative agreement; that Louisiana maintain the principle of reimbursing all providers who are licensed to perform a given service at the same rate, regardless of type of licensure; and revise reimbursement for midwives from a fraction of the rate to the same as physician rate.
Melissa Geyer	Consumer; Citizens for Better Birth	Supports substantive changes; however, contractual agreement will hinder or bar access to birth centers; and requests fair reimbursement for midwives.
Jamie Houser, President	Commission on Accreditation of Birth Centers	Collaborative agreement is in the best interest of consumers by ensuring equitable access to services. There is incentive for hospitals to make contractual agreements.

SUMMARY OF WRITTEN COMMENTS

Proposed Rule: Free Standing Birthing Centers
Public Hearing Date: May 28, 2015
 September 24, 2015 (Substantive Changes Public Hearing)
Docket No. : 052815-02 (May 2015)
 092415-10 (September 2015)
Conducted By: Department of Health and Hospitals, Bureau of Health Services Financing Staff

Written Comments Received From	Mode of Receipt	Summary of Comments (April 20, 2015 Notice of Intent)
Amy Shamburger Families in Support of FSBCs	Submitted at the May 28, 2015 Public Hearing.	<ul style="list-style-type: none"> • \$26501 - propose deleting the phrase "services rendered are very limited, or nonexistent" as compared to hospital services. • \$26901 General Provisions - When referring to the arrangement with referral hospitals, recommend deleting "contractual" and adding "collaborative" relationship with the hospital. • \$26903 Staffing Requirements - Delete "medical director". • \$27101 Reimbursement Methodology - amend reimbursement of midwives for professional services to be equal among different providers.
Dana Keren and Latona Giwa, Birthmark	Medicaid Policy Email Account	<ul style="list-style-type: none"> • Revise regulations to permit birth centers to be operated under the direction of either a midwife or a physician and delete "medical director" from on-staff staffing requirements. • Revise regulations to remove the requirement that birth centers maintain a "contractual relationship" with hospitals and instead reflect Commission for the Accreditation of Birth Centers accreditation standards. • Revise regulations to ensure that midwives working in birth centers are paid a the same rate as physicians. • Include recognition of and reimbursement for birth attendants.
Dana Keren, Birthmark	Medicaid Policy Email Account	<ul style="list-style-type: none"> • \$26901 General Provisions - When referring to the arrangement with referral hospitals, recommend deleting "contractual" and adding "collaborative" relationship with the hospital. • \$26903 – Delete the wording "on staff" in statement "The Freestanding Birth Center shall have on staff"; delete "medical director". • \$27101 Reimbursement Methodology – Recommend certified and licensed nurse midwives providing birthing services within a FSBC be reimbursed according to the published fee schedule rate for physician services rendered in the Professional Services program. • Include recognition of, and reimbursement for, birth attendants.
Dana Keren	Submitted at the May 28, 2015 Public Hearing.	<ul style="list-style-type: none"> • \$26501 – Purpose - propose deleting the phrase "services rendered are very limited, or nonexistent" as compared to hospital services.

		<ul style="list-style-type: none"> • \$26901 General Provisions - When referring to the arrangement with referral hospitals, recommend deleting "contractual" and adding "collaborative" relationship with the hospital. • \$26903 – delete "medical director". • \$27101 Reimbursement Methodology – recommend a set facility service payment rate of \$2500; amend reimbursement of midwives for professional services to be equal among different providers and reimbursed at 100% of the fee schedule.
Dana Margaret	Medicaid Policy Email Account	<ul style="list-style-type: none"> • \$26901 General Provisions - When referring to the arrangement with referral hospitals, recommend deleting "contractual" and adding "collaborative" relationship with the hospital. • \$26903 – Delete the wording "on staff" in statement "The Freestanding Birth Center shall have on staff"; delete "medical director". • \$27101 Reimbursement Methodology – Recommend certified and licensed nurse midwives providing birthing services within a FSBC be reimbursed according to the published fee schedule rate for physician services rendered in the Professional Services program. • Include recognition of, and reimbursement for, birth attendants.
Latona Giwa	Submitted at the May 28, 2015 Public Hearing	<ul style="list-style-type: none"> • \$226501 – Purpose - propose deleting the phrase "services rendered are very limited, or nonexistent" as compared to hospital services. • \$26901 General Provisions - When referring to the arrangement with referral hospitals, recommend deleting "contractual" and adding "collaborative" relationship with the hospital. • \$26903 – delete "medical director". • \$27101 Reimbursement Methodology – recommend a set facility service payment rate of \$2500; amend reimbursement of midwives for professional services to be equal among different providers and reimbursed at 100% of the fee schedule.
Dr. Steven Spedale President, Infamedics (on behalf of 22 physicians)	Via Medicaid Policy Email Account	<ul style="list-style-type: none"> • \$26501 – commented in regards to the statement "Stays for delivery at the FSBC are typically less than 24 hours and the services rendered are very limited, or nonexistent" as compared to hospital services. • \$26503 Definitions - Recommend revising the definition of Birthing Center to state its only purpose is to perform low risk deliveries and clearly state that no reimbursement for services performed outside an approved FSBC. • \$26701 – Scope of Services - Recommend time period of at least 12 hours to ensure adequate transition for the infant instead of "immediate postpartum period". • \$26901 – Recommend the FSBC be licensed by DHH rather than certifications by Commission for the Accreditation of Birth Centers. • \$26903 - Staffing Requirements – Recommend the medical director of the FSBC be board-certified or a candidate for certification in Obstetrics and Gynecology; replace licensed obstetrician with board-certified or a candidate for certification in Obstetrics and Gynecology; staffing requirements be similar to that in the AAP Policy Statement on Planned Home Birth for birth attendants; specific guidelines for the care of the infant.

<p>Jesse Bushman, Director, Advocacy and Government Affairs and Mary Lawlor, Executive Director, National Association of Certified Professional Midwives</p>	<p>Medicaid Policy Email Account</p>	<ul style="list-style-type: none"> • Recommend revising to permit FSBCs to be operated under the direction of either a physician or midwife; • remove requirement for contractual relationship; • recommend reimbursements are equitable to the same rate as physicians; • recommend reimbursements for birth attendants.
<p>Jill Alliman, AABC Legislative Committee Chair</p>	<p>Medicaid Policy Email Account</p>	<ul style="list-style-type: none"> • \$26501 - Purpose – propose deleting the phrase "services rendered are very limited, or nonexistent" as compared to hospital services. • \$26701 - Scope of Services – Supports limitation of services. FSBC staff shall not administer general or epidural anesthesia services. • \$26901 - General Provisions - When referring to the arrangement with referral hospitals, recommend deleting "contractual" and adding "collaborative" relationship with the hospital. • \$26903 – Delete the wording "on staff" in statement "The Freestanding Birth Center shall have on staff"; delete "medical director". • \$27101 Reimbursement Methodology – recommends a baseline facility service fee for complete birth and postpartum care. • Amend reimbursement of midwives for professional services to be equal among different providers.
<p>Katherine E. Paxton</p>	<p>Medicaid Policy Email Account</p>	<p>Re-consider the hospital transfer agreement requirement and the requirement for a physician as medical director.</p> <ul style="list-style-type: none"> • The physician medical director requirement is unrealistic. • The contractual relationship with a referral hospital adds unnecessary liability and provides one industry with monopoly power over another. • The reimbursement methodology needs adjustment. • The verbiage used in the purpose of these rule is biased.
<p>Melissa Geyer</p>	<p>Medicaid Policy Email Account</p>	<p>Representative Hunter</p>
<p>Medicaid Policy Email Account</p>	<p>Medicaid Policy Email Account</p>	<p>Please accept my resolution and I ask it be submitted to the group/panel with the desire physicians and DHH work this out absent legislative involvement. https://www.legis.la.gov/legis/ViewDocument.aspx?d=950095</p>

Written Comments Received From	Mode of Receipt	Summary of Comments (August 20, 2015 Substantive Changes Potpourri)
Jesse Bushman, Director, Advocacy and Government Affairs and Mary Lawlor, Executive Director, National Association of Certified Professional Midwives	Submitted at September 24, 2015 Public Hearing and via Medicaid Policy Email Account	<p>Approves change to staffing requirement.</p> <p>Recommends:</p> <ul style="list-style-type: none"> • Instead of requiring a contractual relationship with a hospital, Louisiana require that they maintain a collaborative relationship. • Louisiana maintain the principle of reimbursing all providers who are licensed to perform a given service at the same rate regardless of type of licensure.
Jill Alliman, AABC Legislative Committee Chair	Medicaid Policy Email Account	<p>Recommends:</p> <ul style="list-style-type: none"> • Deleting contractual and adding collaborative relationship with the hospitals. • Adding language stating "Separate payments shall be made for the professional services and facility services provided in freestanding birth centers" as required in Federal Medicaid statute. • A baseline facility service fee for complete birth and postpartum care; reimbursement levels be equal when the same services is provided by different providers.
Meghan MacInnis	Medicaid Policy Email Account	<ul style="list-style-type: none"> • Supports substantive changes • Requests deleting contractual and adding collaborative relationship with the hospitals; adding language "Separate payments shall be made for the professional services and facility services provided in freestanding birth centers" as required in Federal Medicaid statute; and a baseline facility service fee in the range of \$2500 for complete birth and postpartum care reimbursement levels be equal when the same services is provided by different providers.
Melanie Weaver	Submitted at September 24, 2015 Public Hearing	<p>Recommends:</p> <ul style="list-style-type: none"> • Instead of requiring a contractual relationship with a hospital, Louisiana instead require that they maintain a collaborative relationship • Louisiana maintains the principle of reimbursing all providers who are licensed to perform a given service at the same rate regardless of type of licensure.
Melissa Geyer	Medicaid Policy Email Account	<ul style="list-style-type: none"> • Supports substantive changes; • Requests deleting contractual and adding collaborative relationship with the hospitals; adding language "Separate payments shall be made for the professional services and facility services provided in freestanding birth centers" as required in Federal Medicaid statute; and a baseline facility service fee in the range of \$2500 for complete birth and postpartum care reimbursement levels be equal when the same services is provided by different providers.



State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

August 28, 2015

Amy Shamburger
11307 Tannis Road
St. Amant, LA 70776

Dear Ms. Shamburger:

RE: Notice of Intent for Free-Standing Birthing Centers

This letter is in response to your correspondence regarding the Notice of Intent for Free-Standing Birthing Centers which was published in the April 20, 2015 edition of the *Louisiana Register*.

The Notice of Intent proposes to adopt provisions to establish coverage and reimbursement for labor and delivery services rendered to Medicaid eligible pregnant women by providers at free-standing birthing centers (FSBCs), including certified licensed midwives.

As a result of the comments received, the department determined that changes were needed to the proposed Rule in order to further clarify these provisions. The revisions were published in a Substantive Changes and Public Hearing Notification Potpourri in the August 20, 2015 edition of the *Louisiana Register*.

The Department has reviewed your comments. The responses below address the areas of concern identified in your correspondence.

§26501.Purpose

The Department agrees with your concerns and has amended the language to remove the word "nonexistent".

§26901. General Provisions

Although your concerns regarding the FSBC's relationship with a referral hospital are noted, it is the Department's intent to promote and protect the safety and wellbeing of Medicaid mothers and infants at all times. As such, the Department has determined that this requirement will not be changed.

§26903. Staffing Requirements

The Department has taken your concerns regarding the medical director and clinical or midwifery director requirements under advisement.

§27101. Reimbursement Methodology

The Department will take your concerns regarding the proposed FSBC reimbursement methodology under advisement; however, many factors were considered in establishing the methodology for facility reimbursement, including facility scale, equipment, and available support staff.

Relative to your concerns regarding reimbursement at 100% of the physician fee schedule for professional services provided by all FSBC provider types, the Department offers the following clarification:

- Certified Nurse Midwife (CNM) reimbursement is consistent with other Louisiana Medicaid mid-level providers.
- Certified Professional Midwives (CPMs) do not have the same scope of practice as CNMs or physicians.

I would like to thank you for taking the time to provide comments and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

Should you have any questions or comments regarding Medicaid administrative rulemaking activity, you may contact Veronica Dent, Medicaid Program Manager, at 225-342-3238 or by email to Veronica.Dent@la.gov.

Sincerely,



J. Ruth Kennedy
Medicaid Director

JRK/DB/VYD

c: Cindy Caroon
Lou Ann Owen



State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

August 28, 2015

Dana Keren
Birthmark, LLC
PO Box 791854
New Orleans, LA 70179

Dear Ms. Keren:

RE: Notice of Intent for Free-Standing Birthing Centers

This letter is in response to your correspondence regarding the Notice of Intent for Free-Standing Birthing Centers which was published in the April 20, 2015 edition of the *Louisiana Register*.

The Notice of Intent proposes to adopt provisions to establish coverage and reimbursement for labor and delivery services rendered to Medicaid eligible pregnant women by providers at free-standing birthing centers (FSBCs), including certified licensed midwives.

As a result of the comments received, the department determined that changes were needed to the proposed Rule in order to further clarify these provisions. The revisions were published in a Substantive Changes and Public Hearing Notification Potpourri in the August 20, 2015 edition of the *Louisiana Register*.

The Department has reviewed your comments. The responses below address the areas of concern identified in your correspondence.

§26901. General Provisions

Although your concerns regarding the FSBC's relationship with a referral hospital are noted, it is the Department's intent to promote and protect the safety and wellbeing of Medicaid mothers and infants at all times. As such, the Department has determined that this requirement will not be changed.

§26903. Staffing Requirements

The Department has taken your concerns regarding the provisions of this section under advisement.

§27101. Reimbursement Methodology

The Department will take your concerns regarding the proposed FSBC reimbursement methodology under advisement; however, many factors were considered in establishing the methodology for facility reimbursement, including facility scale, equipment, and available support staff.

Your concerns regarding reimbursement for services provided by certified nurse midwives (CNMs) and licensed midwives according to the published fee schedule rate for physician services are noted; however, CNM reimbursement is consistent with other Louisiana Medicaid mid-level providers and licensed midwives do not have the same scope of practice as CNMs or physicians.

I would like to thank you for taking the time to provide comments and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

Should you have any questions or comments regarding Medicaid administrative rulemaking activity, you may contact Veronica Dent, Medicaid Program Manager, at 225-342-3238 or by email to Veronica.Dent@la.gov.

Sincerely,



J. Ruth Kennedy
Medicaid Director

JRK/DB/VYD

c: Cindy Caroon
Lou Ann Owen



State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

August 28, 2015

Dana Keren
3125 St. Peter Street
New Orleans, LA 70119

Dear Ms. Keren:

RE: Notice of Intent for Free-Standing Birthing Centers

This letter is in response to your correspondence regarding the Notice of Intent for Free-Standing Birthing Centers which was published in the April 20, 2015 edition of the *Louisiana Register*.

The Notice of Intent proposes to adopt provisions to establish coverage and reimbursement for labor and delivery services rendered to Medicaid eligible pregnant women by providers at free-standing birthing centers (FSBCs), including certified licensed midwives.

As a result of the comments received, the department determined that changes were needed to the proposed Rule in order to further clarify these provisions. The revisions were published in a Substantive Changes and Public Hearing Notification Potpourri in the August 20, 2015 edition of the *Louisiana Register*.

The Department has reviewed your comments. The responses below address the areas of concern identified in your correspondence.

§26501.Purpose

The Department agrees with your concerns and has amended the language to remove the word "nonexistent".

§26901. General Provisions

Although your concerns regarding the FSBC's relationship with a referral hospital are noted, it is the Department's intent to promote and protect the safety and wellbeing of Medicaid mothers and infants at all times. As such, the Department has determined that this requirement will not be changed.

§26903. Staffing Requirements

The Department has taken your concerns regarding the medical director and clinical or midwifery director requirements under advisement.

§27101. Reimbursement Methodology

The Department will take your concerns regarding the proposed FSBC reimbursement methodology under advisement; however, many factors were considered in establishing the methodology for facility reimbursement, including facility scale, equipment, and available support staff.

Relative to your concerns regarding reimbursement at 100% of the physician fee schedule for professional services provided by all FSBC provider types, the Department offers the following clarification:

- Certified Nurse Midwife (CNM) reimbursement is consistent with other Louisiana Medicaid mid-level providers.
- Certified Professional Midwives (CPMs) do not have the same scope of practice as CNMs or physicians.

I would like to thank you for taking the time to provide comments and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

Should you have any questions or comments regarding Medicaid administrative rulemaking activity, you may contact Veronica Dent, Medicaid Program Manager, at 225-342-3238 or by email to Veronica.Dent@la.gov.

Sincerely,



J. Ruth Kennedy
Medicaid Director

JRK/DB/VYD

c: Cindy Caroon
Lou Ann Owen



State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

August 28, 2015

Dana Keren
Latona Giwa
Birthmark, LLC
PO Box 791854
New Orleans, LA 70179

Dear Ms. Keren and Ms. Giwa:

RE: Notice of Intent for Free-Standing Birthing Centers

This letter is in response to your correspondence regarding the Notice of Intent for Free-Standing Birthing Centers which was published in the April 20, 2015 edition of the *Louisiana Register*.

The Notice of Intent proposes to adopt provisions to establish coverage and reimbursement for labor and delivery services rendered to Medicaid eligible pregnant women by providers at free-standing birthing centers (FSBCs), including certified licensed midwives.

As a result of the comments received, the department determined that changes were needed to the proposed Rule in order to further clarify these provisions. The revisions were published in a Substantive Changes and Public Hearing Notification Potpourri in the August 20, 2015 edition of the *Louisiana Register*.

The Department has reviewed your comments. The responses below address the areas of concern identified in your correspondence.

Staffing Requirements

The Department has taken your concerns regarding the medical director and clinical or midwifery director requirements under advisement.

Hospital Relationship

Although your concerns regarding the requirement that FSBCs “maintain a contractual relationship” with a general acute care hospital are noted, it is the Department’s intent to promote and protect the safety and wellbeing of Medicaid mothers and infants at all times. As such, the Department has determined that this requirement will not be changed.

Reimbursement

Relative to your concerns regarding the reimbursement methodology for services provided by certified nurse-midwives (CNMs) and birth attendants, the Department offers the following clarification:

- CNM reimbursement is consistent with other Louisiana Medicaid mid-level providers.
- Reimbursement of non-licensed personnel (i.e., birth attendants) is included in the facility fee payment.

I would like to thank you for taking the time to provide comments and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

Should you have any questions or comments regarding Medicaid administrative rulemaking activity, you may contact Veronica Dent, Medicaid Program Manager, at 225-342-3238 or by email to Veronica.Dent@la.gov.

Sincerely,



J. Ruth Kennedy
Medicaid Director

JRK/DB/VYD

c: Cindy Caroon
Lou Ann Owen

From: Veronica Dent
Sent: Tuesday, September 22, 2015 10:20 AM
To: 'latona@birthmarkdoulas.com'
Subject: Notice of Intent for Free-Standing Birthing Centers

Good morning, Ms. Giwa:

I am responding on behalf of J. Ruth Kennedy, Medicaid Director, to your attached correspondence regarding the Notice of Intent for Free-Standing Birthing Centers which was published in the April 20, 2015 edition of the *Louisiana Register*.

The Notice of Intent proposes to adopt provisions to establish coverage and reimbursement for labor and delivery services rendered to Medicaid eligible pregnant women by providers at free-standing birthing centers (FSBCs), including certified licensed midwives.

As a result of the comments received, the department determined that changes were needed to the proposed Rule in order to further clarify these provisions. The revisions were published in a Substantive Changes and Public Hearing Notification Potpourri in the August 20, 2015 edition of the *Louisiana Register*.

The Department has reviewed your comments. The responses below address the areas of concern identified in your correspondence.

§26501.Purpose

The Department agrees with your concerns and has amended the language to remove the word “nonexistent”.

§26901. General Provisions

Although your concerns regarding the FSBC’s relationship with a referral hospital are noted, it is the Department’s intent to promote and protect the safety and wellbeing of Medicaid mothers and infants at all times. As such, the Department has determined that this requirement will not be changed.

§26903. Staffing Requirements

The Department has taken your concerns regarding the medical director and clinical or midwifery director requirements under advisement.

§27101. Reimbursement Methodology

The Department will take your concerns regarding the proposed FSBC reimbursement methodology under advisement; however, many factors were considered in establishing the methodology for facility reimbursement, including facility scale, equipment, and available support staff.

Relative to your concerns regarding reimbursement at 100 percent of the physician fee schedule for professional services provided by all FSBC provider types, the Department offers the following clarification:

- Certified Nurse Midwife (CNM) reimbursement is consistent with other Louisiana Medicaid mid-level providers.
- Certified Professional Midwives (CPMs) do not have the same scope of practice as CNMs or physicians.

I would like to thank you for taking the time to provide comments and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

My contact information is included in my signature below, should you have any questions or comments regarding Medicaid administrative rulemaking activity.

Veronica Y. Dent
Medicaid Program Manager
Rulemaking Unit
Medicaid Policy and Compliance Section
Phone: 225-342-3238 | Fax: 225-376-4777
veronica.dent@la.gov
Mon-Fri, 7:30 a.m. – 4:00 p.m.

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State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

August 28, 2015

Dana Margaret
3125 St. Peter Street
New Orleans, LA 70119

Dear Ms. Margaret:

RE: Notice of Intent for Free-Standing Birthing Centers

This letter is in response to your correspondence regarding the Notice of Intent for Free-Standing Birthing Centers which was published in the April 20, 2015 edition of the *Louisiana Register*.

The Notice of Intent proposes to adopt provisions to establish coverage and reimbursement for labor and delivery services rendered to Medicaid eligible pregnant women by providers at free-standing birthing centers (FSBCs), including certified licensed midwives.

As a result of the comments received, the department determined that changes were needed to the proposed Rule in order to further clarify these provisions. The revisions were published in a Substantive Changes and Public Hearing Notification Potpourri in the August 20, 2015 edition of the *Louisiana Register*.

The Department has reviewed your comments. The responses below address the areas of concern identified in your correspondence.

§26901. General Provisions

Although your concerns regarding the FSBC's relationship with a referral hospital are noted, it is the Department's intent to promote and protect the safety and wellbeing of Medicaid mothers and infants at all times. As such, the Department has determined that this requirement will not be changed.

§26903. Staffing Requirements

The Department has taken your concerns regarding the provisions of this section under advisement.

§27101. Reimbursement Methodology

The Department will take your concerns regarding the proposed FSBC reimbursement methodology under advisement; however, many factors were considered in establishing the methodology for facility reimbursement, including facility scale, equipment, and available support staff.

Your concerns regarding reimbursement for services provided by certified nurse midwives (CNMs) and licensed midwives according to the published fee schedule rate for physician services are noted; however, CNM reimbursement is consistent with other Louisiana Medicaid mid-level providers and licensed midwives do not have the same scope of practice as CNMs or physicians.

I would like to thank you for taking the time to provide comments and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

Should you have any questions or comments regarding Medicaid administrative rulemaking activity, you may contact Veronica Dent, Medicaid Program Manager, at 225-342-3238 or by email to Veronica.Dent@la.gov.

Sincerely,



J. Ruth Kennedy
Medicaid Director

JRK/DB/VYD

c: Cindy Caroon
Lou Ann Owen



State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

August 28, 2015

Steven B. Spedale MD FAAP
Infamedics
PO Box 45171
Baton Rouge, LA 70895-4171

Dear Dr. Spedale:

RE: Notice of Intent for Free-Standing Birthing Centers

This letter is in response to your correspondence regarding the Notice of Intent for Free-Standing Birthing Centers which was published in the April 20, 2015 edition of the *Louisiana Register*.

The Notice of Intent proposes to adopt provisions to establish coverage and reimbursement for labor and delivery services rendered to Medicaid eligible pregnant women by providers at free-standing birthing centers (FSBCs), including certified licensed midwives.

As a result of the comments received, the department determined that changes were needed to the proposed Rule in order to further clarify these provisions. The revisions were published in a Substantive Changes and Public Hearing Notification Potpourri in the August 20, 2015 edition of the *Louisiana Register*.

The Department has reviewed your comments. The responses below address the areas of concern identified in your correspondence.

§26501.Purpose

The Department agrees with your concerns and has amended the language to remove the word "nonexistent".

§26503. Definitions

Relative to your concerns regarding FSBC reimbursement and hospital “co-location”, the Department intends to implement policy and logic to only allow reimbursement for deliveries at the FSBC. Additionally, the proposed Rule pertains only to **free-standing** birthing centers. The provisions do not govern other types of birthing centers or prohibit the establishment of birthing centers within hospitals.

Your concerns regarding FSBC licensure requirements and travel times associated with maternal and neonatal hospital transports are taken under advisement.

§26701. Scope of Services

Your concerns regarding “immediate postpartum period” are noted.

§26901. General Provisions

The Department has taken your concerns with the provisions of this section under advisement. Additionally, your recommendation that the FSBC be licensed by the Department as opposed to accepting certification by the Commission for the Accreditation of Birth Centers (CABC) is noted; however, licensure is established through legislation.

§26903. Staffing Requirements

Your concern regarding the medical director requirement for FSBC is taken under advisement; however, please note that it is not consistent with the most recent American College of Obstetricians and Gynecologists (ACOG) /Society for Maternal Fetal Medicine (MFM) guidelines for birth centers.

I would like to thank you for taking the time to provide comments and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

Should you have any questions or comments regarding Medicaid administrative rulemaking activity, you may contact Veronica Dent, Medicaid Program Manager, at 225-342-3238 or by email to Veronica.Dent@la.gov.

Sincerely,



J. Ruth Kennedy
Medicaid Director

JRK/DB/VYD

c: Cindy Caroon
Lou Ann Owen



State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

August 28, 2015

Jesse S. Bushman
Mary Lawlor
8403 Colesville Road, Suite 1550
Silver Spring, MD 20910-6374

Dear Mr. Bushman and Ms. Lawlor:

RE: Notice of Intent for Free-Standing Birthing Centers

This letter is in response to your correspondence regarding the Notice of Intent for Free-Standing Birthing Centers which was published in the April 20, 2015 edition of the *Louisiana Register*.

The Notice of Intent proposes to adopt provisions to establish coverage and reimbursement for labor and delivery services rendered to Medicaid eligible pregnant women by providers at free-standing birthing centers (FSBCs), including certified licensed midwives.

As a result of the comments received, the department determined that changes were needed to the proposed Rule in order to further clarify these provisions. The revisions were published in a Substantive Changes and Public Hearing Notification Potpourri in the August 20, 2015 edition of the *Louisiana Register*.

The Department has reviewed your comments. The responses below address the areas of concern identified in your correspondence.

Staffing Requirements

The Department has taken your concerns regarding the medical director and clinical or midwifery director requirements under advisement.

Hospital Relationship

Although your concerns regarding the requirement that FSBCs “maintain a contractual relationship” with a general acute care hospital are noted, it is the Department’s intent to promote and protect the safety and wellbeing of Medicaid mothers and infants at all times. As such, the Department has determined that this requirement will not be changed.

Reimbursement

Relative to your concerns regarding the reimbursement methodology for services provided by certified nurse-midwives (CNMs) and birth attendants, the Department offers the following clarification:

- CNM reimbursement is consistent with other Louisiana Medicaid mid-level providers.
- Reimbursement of non-licensed personnel (i.e., birth attendants) is included in the facility fee payment.

I would like to thank you for taking the time to provide comments and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

Should you have any questions or comments regarding Medicaid administrative rulemaking activity, you may contact Veronica Dent, Medicaid Program Manager, at 225-342-3238 or by email to Veronica.Dent@la.gov.

Sincerely,



J. Ruth Kennedy
Medicaid Director

JRK/DB/VYD

c: Cindy Caroon
Lou Ann Owen

Bobby Jindal
GOVERNOR



Kathy H. Kliebert
SECRETARY

State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

October 6, 2015

Jesse S. Bushman
Mary Lawlor
8403 Colesville Road, Suite 1550
Silver Spring, MD 20910-6374

Dear Mr. Bushman and Ms. Lawlor:

**RE: Substantive Changes and Public Hearing Notification
Free-Standing Birthing Centers**

This letter is in response to your correspondence regarding the Substantive Changes and Public Hearing Notification for Free-Standing Birthing Centers which was published in the August 20, 2015 edition of the *Louisiana Register*.

The Department would like to thank you for taking the time to provide comments regarding the non-technical, substantive revisions to the Notice of Intent for Free-Standing Birthing Centers which was published in the April 20, 2015 edition of the *Louisiana Register*. This Notice of Intent proposes to adopt provisions to establish coverage and reimbursement for labor and delivery services rendered to Medicaid eligible pregnant women by providers at free-standing birthing centers (FSBCs), including certified licensed midwives.

The Department has noted your concerns and will take them under consideration as we move forward with the administrative rulemaking process to establish clear and concise provisions governing Free-Standing Birthing Centers.

I would like to thank you for your continued interest in the administrative rulemaking process and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

Should you have any questions or comments regarding Medicaid administrative

Jesse Bushman & Mary Lawlor Response
October 6, 2015
Page 2

rulemaking activity, you may contact Veronica Dent, Medicaid Program Manager, at 225-342-3238 or by email to Veronica.Dent@la.gov.

Sincerely,



J. Ruth Kennedy
Medicaid Director

JRK/DAB/VYD

c: Lou Ann Owen
Cindy Caroon

Bobby Jindal
GOVERNOR



Kathy H. Kliebert
SECRETARY

State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

August 28, 2015

Jill Alliman, CNM, DNP
American Association of Birth Centers
3123 Gottschall Road
Perkiomenville, PA 18074

Dear Ms. Alliman:

RE: Notice of Intent for Free-Standing Birthing Centers

This letter is in response to your correspondence regarding the Notice of Intent for Free-Standing Birthing Centers which was published in the April 20, 2015 edition of the *Louisiana Register*.

The Notice of Intent proposes to adopt provisions to establish coverage and reimbursement for labor and delivery services rendered to Medicaid eligible pregnant women by providers at free-standing birthing centers (FSBCs), including certified licensed midwives.

As a result of the comments received, the department determined that changes were needed to the proposed Rule in order to further clarify these provisions. The revisions were published in a Substantive Changes and Public Hearing Notification Potpourri in the August 20, 2015 edition of the *Louisiana Register*.

The Department has reviewed your comments. The responses below address the areas of concern identified in your correspondence.

§26501.Purpose

The Department has amended the language to remove the word "nonexistent".

§26901. General Provisions

Although your concerns regarding the FSBC's relationship with a referral hospital are noted, it is the Department's intent to promote and protect the safety and wellbeing of Medicaid mothers and infants at all times. As such, the Department has determined that this requirement will not be changed.

§26903. Staffing Requirements

The Department has taken your concerns regarding the medical director and clinical or midwifery director requirements under advisement.

§27101. Reimbursement Methodology

The Department will take your concerns regarding the proposed FSBC reimbursement methodology under advisement; however, many factors were considered in establishing the methodology for facility reimbursement, including facility scale, equipment, and available support staff.

Relative to your concerns regarding reimbursement at 100% of the physician fee schedule for professional services provided by all FSBC provider types, the Department offers the following clarification:

- Certified Nurse Midwife (CNM) reimbursement is consistent with other Louisiana Medicaid mid-level providers.
- Licensed Midwives do not have the same scope of practice as CNMs or physicians.

I would like to thank you for taking the time to provide comments and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

Should you have any questions or comments regarding Medicaid administrative rulemaking activity, you may contact Veronica Dent, Medicaid Program Manager, at 225-342-3238 or by email to Veronica.Dent@la.gov.

Sincerely,



J. Ruth Kennedy
Medicaid Director

JRK/DB/VYD

c: Cindy Caroon
Lou Ann Owen

Bobby Jindal
GOVERNOR



Kathy H. Kliebert
SECRETARY

State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

October 6, 2015

Jill Alliman, CNM, DNP
American Association of Birth Centers
3123 Gottschall Road
Perkiomenville, PA 18074

Dear Ms. Alliman:

**RE: Substantive Changes and Public Hearing Notification
Free-Standing Birthing Centers**

This letter is in response to your correspondence regarding the Substantive Changes and Public Hearing Notification for Free-Standing Birthing Centers which was published in the August 20, 2015 edition of the *Louisiana Register*.

The Department would like to thank you for taking the time to provide comments regarding the non-technical, substantive revisions to the Notice of Intent for Free-Standing Birthing Centers which was published in the April 20, 2015 edition of the *Louisiana Register*. This Notice of Intent proposes to adopt provisions to establish coverage and reimbursement for labor and delivery services rendered to Medicaid eligible pregnant women by providers at free-standing birthing centers (FSBCs), including certified licensed midwives.

The Department has noted your concerns and will take them under consideration as we move forward with the administrative rulemaking process to establish clear and concise provisions governing Free-Standing Birthing Centers.

I would like to thank you for your continued interest in the administrative rulemaking process and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

Should you have any questions or comments regarding Medicaid administrative

Jill Alliman Response
October 6, 2015
Page 2

rulemaking activity, you may contact Veronica Dent, Medicaid Program Manager, at 225-342-3238 or by email to Veronica.Dent@la.gov.

Sincerely,



J. Ruth Kennedy
Medicaid Director

JRK/DAB/VYD

c: Lou Ann Owen
Cindy Caroon

From: Veronica Dent
Sent: Tuesday, September 22, 2015 10:18 AM
To: 'katepaxtoncnm@gmail.com'
Subject: RE: FBSCs regulations

Good morning, Ms. Paxton:

I am responding on behalf of J. Ruth Kennedy, Medicaid Director, to your email below regarding the Notice of Intent for Free-Standing Birthing Centers which was published in the April 20, 2015 edition of the *Louisiana Register*.

The Notice of Intent proposes to adopt provisions to establish coverage and reimbursement for labor and delivery services rendered to Medicaid eligible pregnant women by providers at free-standing birthing centers (FSBCs), including certified licensed midwives.

As a result of the comments received, the department determined that changes were needed to the proposed Rule in order to further clarify these provisions. The revisions were published in a Substantive Changes and Public Hearing Notification Potpourri in the August 20, 2015 edition of the *Louisiana Register*.

The Department has noted your concerns regarding the proposed regulations and would like to thank you for taking the time to provide comments. We hope that that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

My contact information is included in my signature below, should you have any questions or comments regarding Medicaid administrative rulemaking activity.

Veronica Y. Dent
Medicaid Program Manager
Rulemaking Unit
Medicaid Policy and Compliance Section
Phone: 225-342-3238 | Fax: 225-376-4777
veronica.dent@la.gov
Mon-Fri, 7:30 a.m. – 4:00 p.m.

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From: Kate Paxton [<mailto:katepaxtoncnm@gmail.com>]

Sent: Friday, May 29, 2015 3:56 PM

To: Medicaid Policy

Subject: FBSCs regulations

Dr. J. Ruth Kennedy,

I want to write to congratulate the Dept. of Health and Hospitals in developing rules to enable access of Medicaid recipients to Free-standing Birth Centers (FBSCs). As was shown in the Outcomes of Care in Birth Centers: Demonstration of a Durabe Model, <http://onlinelibrary.wiley.com/doi/10.1111/jmwh.12003/abstract>, FBSCs can decrease unnecessary intervention while maintaining safety. This large (15,574 women) prospective cohort study published in the Journal of Midwifery and Women's Health FBSCs can assist women with a 93% spontaneous vaginal birth rate, a 1% assisted delivery rate and a 6% cesarean birth rate with safe transfer rates and maternal, intrapartum neonatal mortality rates.

I am a nurse-midwife. I left Louisiana in 2008 to attend Columbia University, then train in a model birth center, the Reading Birth Center, (<http://readingbirthcenter.org/>) whose collaborative practice model was documented in a Description of a successful collaborative birth center practice among midwives and an obstetrician, available at <http://www.ncbi.nlm.nih.gov/pubmed/22963694>. I currently practice at Ochsner Baptist Hospital in a collaborative practice model, with midwives, obstetricians and maternal-fetal medicine specialists working together to bring the best of our expertise to the table.

I want to directly address some of the FBSC proposed regulations. It is excellent that the Commission for Accreditation of Birth Centers will be involved, as they are truly the experts in birth center accreditation. The 20 mile distance limitation in urban areas is a reasonable request, and will not likely hinder birth center development.

However, the rule that each FBSC must maintain a transfer agreement with local hospitals is a major impediment to the development of birth centers that serve pregnant women with Medicaid insurance. Similar to the way that hospitals have infrequently granted hospital privileges to independent nurse practitioners and nurse-midwives, I believe hospitals will have little to no incentive to sign transfer agreements with their direct competitors (FBSCs). I'm afraid that if this rule is included, FBSCs will only serve women who have private insurance or can pay out of pocket, which will greatly limit the ability of low-income women to access this essential care.

This becomes particularly apparent in the case of Certified Nurse Midwives (CNMs), such as myself. Midwives and obstetricians, though providing *related* care, have very very different ways of managing similar problems. Midwives like myself have no interest in pushing boundaries of safety out of hospital. We are well trained to transfer cases before complications arise and to handle what obstetrical emergencies may occur. Hospitals are required to accept emergent transfers due to national Emergency Medical Treatment and Active Labor Act (EMTALA) regulations. EMTALA (<https://www.cms.gov/emtala/>) requires that all Medicare-Participating Hospitals must ensure public access regardless of the ability to pay, including medical emergencies and active labor.

Another area that may inhibit the development of Medicaid-eligible FBSCs is the requiring a medical director with the credentials of medical doctor or doctor of osteopathy. While there are many FBSCs with physicians as medical directors, there are also many that are run by midwives. FBSCs are areas of midwifery expertise. One excellent example of this is waterbirth. The physicians in my hospital frequently refer patients who desire waterbirth to midwifery care because we are the experts in waterbirth and natural birth. Just as we refer patients who require cesarean birth to physician care. The patients who are eligible for birth center care are the same patient population that are eligible for midwifery care.

What you might consider is a concern with who will be the *midwifery director* than who will be the medical director. Midwives are trained to recognize normal, refer what is not appropriate for midwifery care, help guide women through the pregnancy and labor process, safely deliver babies and care for mothers and babies postpartum. Midwives, often trained in hospital, birth center AND home, as I was, and who bedside labor support, are often better prepared to recognize the sometimes subtle signs that a labor course is no longer safe or advisable and recommend transfer. That is not to devalue our physician colleagues and their amazing contributions to the care team. But we all have our areas of expertise and birth centers are suited for midwifery-led care.

A few examples: these birth centers are all successfully run by midwives:

Babymoon Inn, Phoenix, AZ <http://babymooninn.com/about-us/about-us/>

Blessed Birth, Greenville, SC <http://www.blessedbirths.com/about-history>

Minnesota Birth Center, Minneapolis, MN <http://theminnesotabirthcenter.com/about/our-staff/meet-the-staff/>

Nativiti, The Woodlands, TX <http://www.nativiti.com/>

The Birth Center, Sacramento, CA

<http://www.sactobirth.com/our-birth-center>

Cascade Birth Center, Everett, WA http://cascadebirthcenter.com/?page_id=14

I agree that Medicaid access to FBSCs will have a good impact on care for the women of Louisiana. We may finally see a reduction in the cesarean epidemic, of which our state is the leader, at 40%. We may see many low-income and low-resource mamas receive the kind of care that can make a dramatic impact not only on their labor and birth, but on the entire way they parent and raise children. Like the mother who I assisted last week, who cried out, as she picked up her own baby following an all-natural hands and knees delivery, "I did it! I did it!" Women can gain great amounts of autonomy and empowerment through a natural birth and it would be wonderful to see FBSCs proliferate across Louisiana as they have in other states. I hope that you re-consider the hospital-transfer agreement requirement rule and the physician as medical director rule, to give open doors for midwives to create and run the kinds of birth centers that can transform lives.

Thank you for your time,

~ Katherine E Paxton, CNM, MSN

Please call if you have any further questions 504-874-1587

katepaxtoncnm@gmail.com

From: Veronica Dent
Sent: Wednesday, October 07, 2015 9:26 AM
To: 'meghanmacinnis@gmail.com'
Subject: RE: Freestanding Birth Centers, Substantive Changes Part XV, Chapters 265 – 271

Good morning, Ms. MacInnis:

I am responding on behalf of J. Ruth Kennedy, Medicaid Director, to your email below regarding the Substantive Changes and Public Hearing Notification for Free-Standing Birthing Centers which was published in the August 20, 2015 edition of the *Louisiana Register*.

The Department would like to thank you for taking the time to provide comments regarding the non-technical, substantive revisions to the Notice of Intent for Free-Standing Birthing Centers which was published in the April 20, 2015 edition of the *Louisiana Register*. This Notice of Intent proposes to adopt provisions to establish coverage and reimbursement for labor and delivery services rendered to Medicaid eligible pregnant women by providers at free-standing birthing centers (FSBCs), including certified licensed midwives.

The Department has noted your concerns and will take them under consideration as we move forward with the administrative rulemaking process to establish clear and concise provisions governing Free-Standing Birthing Centers.

I would like to thank you for your continued interest in the administrative rulemaking process and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

My contact information is included in my signature below, should you have any questions or comments regarding Medicaid administrative rulemaking activity.

Veronica Y. Dent
Medicaid Program Manager
Rulemaking Unit
Medicaid Policy and Compliance Section
Phone: 225-342-3238 | Fax: 225-376-4777
veronica.dent@la.gov
Mon-Fri, 7:30 a.m. – 4:00 p.m.

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-----Original Message-----

From: Meghan MacInnis [<mailto:meghanmacinnis@gmail.com>]

Sent: Thursday, September 24, 2015 12:29 AM

To: Medicaid Policy

Subject: Freestanding Birth Centers, Substantive Changes Part XV, Chapters 265 – 271

Dear Ms. Kennedy:

I am submitting comments to the Notice of Intent for Freestanding Birth Centers published in Louisiana Potpourri August, 2015 as Freestanding Birth Centers, Substantive Changes Part XV, Chapters 265 – 271. Thank you for your efforts to provide access to free-standing birth centers (FSBC) to all mothers and babies in Louisiana. I agree with the removal of the word “nonexistent” under services provided, and with removal of Medical Director as part of required staffing.

However, I’m deeply concerned that other items within these proposed regulations will not only prohibit access to FSBC by Medicaid eligible mothers but prevent more FSBC from opening in the future. As a result, it would deem all efforts thus far for fair rules by consumers; birth professionals; politicians; local, state and national organizations; and the Department of Health and Hospitals (DHH) moot and insignificant. As you are aware and working to address with the Birth Outcomes Initiative along with the governor, Louisiana alarmingly maintains the nation’s highest cesarean rate of around 40%! Yet, FSBC have an average 6% cesarean rate, and the Birth Center of Baton Rouge has a 4% cesarean rate! Therefore, every effort must be made to ensure availability of FSBC for Louisiana residents. To be effective, FSBC regulations must improve access to and sustainability of FSBC, and should not place an undue burden of perceived liability on Hospitals accepting transfers from FSBC.

Improving Access for Medicaid Beneficiaries Congress has recognized the savings and quality inherent in the FSBC model of care and requires both fee-for-service programs and Medicaid MCOs (MMCOs) to reimburse freestanding birth centers. Given the prevalence of maternity care within Medicaid, failure to adequately implement this benefit would be a missed opportunity. Centers for Medicare and Medicaid (CMS) has also recognized the quality of birth center model of care by funding Strong Start, a four year project to study models of enhanced prenatal care that improve maternal and infant outcomes. The American Association of Birth Centers (AABC) is a Strong Start awardee collecting extensive data on outcomes from multiple birth center sites in 22 states. After more than two years of data collection, preliminary data show FSBC leading to better outcomes, such as lower cesarean section rates, lower pre-term birth and low birth weight rates, than the other models being studied. FSBC have a demonstrated track record of providing high quality, low cost care, exactly the type of care that many states are vigorously seeking to support under a variety of programs. ,

In spite of improved outcomes and cost savings with birth center care, barriers in Medicaid payment prevent full access to FSBC care. Please accept my comments on the proposed regulations as outlined below. I hope that these comments will be considered in the effort to reduce barriers to new FSBC opening and operating in Louisiana, so that more Medicaid beneficiaries will have access to FSBC care.

Title 50 §226501. Purpose

A. My preference is to delete the phrase “services rendered are very limited, or nonexistent” as compared to hospital services. I acknowledge and agree with removal of the word “nonexistent” in this revision. As stated previously, full scope comprehensive services are provided in FSBC. These include

prenatal, intrapartum, postpartum and newborn care for healthy women experiencing low risk pregnancy and birth.

Chapter 267, Services

§26701 Scope of Services

C. I fully support this limitation of services. FSBC staff shall not administer general or epidural anesthesia services.

Justification: General or epidural anesthesia are NOT consistent with AABC birth center standards and with safe provision of services to low risk women outside the hospital.

§26901 General Provisions

B. When referring to the arrangement with referral hospital, I request deleting “contractual” and adding “collaborative” relationship with the hospital.

Proposed wording change: “The collaborative relationship should allow for communication between providers before, during and after transfers. In the event an emergency cesarean delivery is needed, the cesarean delivery can begin within 30 minutes of the decision a cesarean delivery is necessary.”

Justification: Within all individual birth center regulations within the US and the District of Columbia (DC), there are only 12 states that require written agreements with transfer hospitals. In all other states, this requirement is not present or is described as having a “transfer plan” in place. I agree with AABC’s recommendation that either wording is changed to “transfer plan” or “collaborative plan”, or this requirement is removed from regulation. Having this requirement is associated with states having fewer FSBC, as these agreements are difficult to obtain from a hospital that is in direct competition with the FSBC for clients. If this requirement is included in final regulations, there should be a clause that if a hospital refuses a written agreement, then that FSBC can get a waiver from the State so they can still operate. Alternatively, hospitals where FSBC are located could be required to enter into written agreements with FSBC.

AABC Standards discourage contractual requirements due to the undue burden placed on FSBC and referral hospitals to obtain these contracts. Recommended wording change would reflect this arrangement as collaborative to decrease liability for receiving hospital and physicians implied by a contractual arrangement. FSBC desire that transfers of care be handled smoothly and seamlessly so that the safety of mother and newborn be placed as the highest priority. The transfer from the birth center is similar to transfers between Level I and Level II or III Hospitals within the maternity care system where contracts are not required. Communication, professionalism and planning between providers at different level facilities is of utmost importance.

Provision of an emergency cesarean surgery within 30 minutes of decision when necessary is difficult to provide even within a hospital. While this is an ideal goal, it can only be accomplished with excellent collaboration and communication between health care providers, transport services and facilities.

Under §26903 Staffing Requirements. I agree with wording change in this revision.

§27101 Reimbursement Methodology

A. I am concerned that the proposed payment methodology in these regulations will not support the growth of access to FSBC care for Medicaid beneficiaries in Louisiana.

Add B.

“Separate payments shall be made for the professional services and facility services provided in freestanding birth centers,” as required in Federal Medicaid statute.

Justification: AABC recommends a baseline facility services fee in the range of \$2500 for complete birth and postpartum care. In AABC’s experience, having a variable facility service payment structure is not workable for FSBC for several reasons. No information is provided concerning what these per diem rates would be and what services would be covered. The FSBC facility provides services throughout the period of pregnancy and postpartum. During labor and birth, the facility provides both maternal and newborn

care, which includes nursing staff, supplies, and overhead of operating the facility. Facility service costs are essentially the same for birth centers in all locations to operate and include the costs of accreditation, liability insurance, nursing staff, supplies, utilities, maintenance and other overhead. A description of birth center facility services in Medicaid regulation can be found in Massachusetts Regulations: "Facility Component. The Facility Component does include payment for the services of other clinical staff, e.g., registered nurses and licensed practical nurses. The Facility Component also includes payment for the component of a service or procedure representing the cost of rent, equipment, utilities, supplies, drugs and biologicals, clinical laboratory services, administrative and technical salaries and benefits, all related administrative or supervisory duties performed in connection with the provision of the service or procedure, and all other overhead expenses of the service or procedure." With 64% of all births in Louisiana covered by Medicaid, birth centers cannot be sustainable under such a low reimbursement level. I agree with AABC's recommendation that a set facility service payment rate of approximately \$2500 would be more reasonable. FSBC save Medicaid dollars by producing excellent outcomes with lower use of medical interventions, low cesarean rates, lower preterm birth rates, higher breastfeeding rates and more educated and prepared mothers. These savings cannot be gained by paying such low facility payments that birth centers cannot afford to open their doors. Significant savings to Medicaid will be realized even with adequate payment to birth centers because of improved outcomes in fewer cesarean sections, and reduced preterm and low birthweight birth rates. Federal law states that payments shall be made separately for professional services of the primary provider and the facility services of the freestanding birth center.

2. and 3. Reimbursement of midwives for professional services. I agree with AABC's recommendation that reimbursement levels be equal when the same service is provided by different providers. The CPT code for normal vaginal birth is billed the same whether the service is provided by a physician, a certified nurse-midwife, or a licensed midwife. In federal statute, CNMs are paid at 100% of the physician fee schedule by Medicare. A low risk spontaneous vaginal birth should be reimbursed at the same level for all providers licensed to provide that same service in birth centers.

Conclusion

Thank you for revising these proposed regulations, and I hope you will consider further revision. I look forward to working with you in the future to ensure the highest quality evidence based care is provided in FSBC in Louisiana.

Sincerely,

Meghan MacInnis

From: Veronica Dent

Sent: Wednesday, October 07, 2015 9:27 AM

To: "meweaver@ochsner.org"

Subject: Substantive Changes and Public Hearing Notification - Free-Standing Birthing Centers

Attachments: Melanie Weaver Public Hearing Comments 9-24-15.pdf

Good morning, Ms. Weaver:

I am responding on behalf of J. Ruth Kennedy, Medicaid Director, to the attached documentation you submitted at the September 24, 2015 public hearing for the Substantive Changes and Public Hearing Notification for Free-Standing Birthing Centers which was published in the August 20, 2015 edition of the *Louisiana Register*. The documentation consists of a written transcript of your oral testimony given at the public hearing and comments submitted on behalf of the American College of Nurse-Midwives and the National Association of Certified Professional Midwives.

The Department would like to thank you for taking the time to provide comments regarding the non-technical, substantive revisions to the Notice of Intent for Free-Standing Birthing Centers which was published in the April 20, 2015 edition of the *Louisiana Register*. This Notice of Intent proposes to adopt provisions to establish coverage and reimbursement for labor and delivery services rendered to Medicaid eligible pregnant women by providers at free-standing birthing centers (FSBCs), including certified licensed midwives.

The Department has noted your concerns and will take them under consideration as we move forward with the administrative rulemaking process to establish clear and concise provisions governing Free-Standing Birthing Centers.

I would like to thank you for your continued interest in the administrative rulemaking process and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

My contact information is included in my signature below, should you have any questions or comments regarding Medicaid administrative rulemaking activity.

Veronica Y. Dent

Medicaid Program Manager

Rulemaking Unit

Medicaid Policy and Compliance Section

Phone: 225-342-3238 | Fax: 225-376-4777

veronica.dent@la.gov

Mon-Fri, 7:30 a.m. – 4:00 p.m.

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Bobby Jindal
GOVERNOR



Kathy H. Kliebert
SECRETARY

State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

August 28, 2015

Melissa Geyer
909 Walking Stick Court
Covington, LA 70433

Dear Ms. Geyer:

RE: Notice of Intent for Free-Standing Birthing Centers

This letter is in response to your correspondence regarding the Notice of Intent for Free-Standing Birthing Centers which was published in the April 20, 2015 edition of the *Louisiana Register*.

The Notice of Intent proposes to adopt provisions to establish coverage and reimbursement for labor and delivery services rendered to Medicaid eligible pregnant women by providers at free-standing birthing centers (FSBCs), including certified licensed midwives.

As a result of the comments received, the department determined that changes were needed to the proposed Rule in order to further clarify these provisions. The revisions were published in a Substantive Changes and Public Hearing Notification Potpourri in the August 20, 2015 edition of the *Louisiana Register*.

The Department has reviewed your comments. The responses below address the areas of concern identified in your correspondence.

1. The physician medical director requirement is unrealistic

The Department has taken your concerns regarding the medical director requirement under advisement.

2. The contractual relationship with a referral hospital adds unnecessary liability and provides one industry with monopoly power over another.

Although your concerns regarding the FSBC's relationship with a referral hospital are noted, it is the Department's intent to promote and protect the safety and wellbeing of Medicaid mothers and infants at all times. As such, the Department has determined that this requirement will not be changed.

3. The reimbursement methodology needs adjustment.

The Department will take your concerns regarding the proposed FSBC reimbursement methodology under advisement; however, many factors were considered in establishing the methodology for facility reimbursement, including facility scale, equipment, and available support staff.

Relative to your concerns regarding reimbursement at 100% of the physician fee schedule for professional services provided by certified nurse midwives (CNMs) and Certified Professional Midwives (CPMs), the Department offers the following clarification:

- CNM reimbursement is consistent with other Louisiana Medicaid mid-level providers.
- CPMs do not have the same scope of practice as CNMs or physicians.

4. The verbiage used in the purpose of these rules is biased.

The Department has amended the language to remove the word "nonexistent".

I would like to thank you for taking the time to provide comments and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

Should you have any questions or comments regarding Medicaid administrative rulemaking activity, you may contact Veronica Dent, Medicaid Program Manager, at 225-342-3238 or by email to Veronica.Dent@la.gov.

Sincerely,



J. Ruth Kennedy
Medicaid Director

JRK/DB/VYD

c: Cindy Caroon
Lou Ann Owen

Bobby Jindal
GOVERNOR



Kathy H. Kliebert
SECRETARY

State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

October 6, 2015

Melissa Geyer
909 Walking Stick Ct
Covington, LA 70433

Dear Ms. Geyer:

**RE: Substantive Changes and Public Hearing Notification
Free-Standing Birthing Centers**

This letter is in response to your correspondence regarding the Substantive Changes and Public Hearing Notification for Free-Standing Birthing Centers which was published in the August 20, 2015 edition of the *Louisiana Register*.

The Department would like to thank you for taking the time to provide comments regarding the non-technical, substantive revisions to the Notice of Intent for Free-Standing Birthing Centers which was published in the April 20, 2015 edition of the *Louisiana Register*. This Notice of Intent proposes to adopt provisions to establish coverage and reimbursement for labor and delivery services rendered to Medicaid eligible pregnant women by providers at free-standing birthing centers (FSBCs), including certified licensed midwives.

The Department has noted your concerns and will take them under consideration as we move forward with the administrative rulemaking process to establish clear and concise provisions governing Free-Standing Birthing Centers.

I would like to thank you for your continued interest in the administrative rulemaking process and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

Should you have any questions or comments regarding Medicaid administrative

Melissa Geyer Response
October 6, 2015
Page 2

rulemaking activity, you may contact Veronica Dent, Medicaid Program Manager, at 225-342-3238 or by email to Veronica.Dent@la.gov.

Sincerely,



J. Ruth Kennedy
Medicaid Director

JRK/DAB/VYD

c: Lou Ann Owen
Cindy Caroon

From: Veronica Dent
Sent: Tuesday, September 22, 2015 10:16 AM
To: 'rdickersonmd@yahoo.com'
Subject: RE: Birth Center regulations

Good morning, Dr. Dickerson:

I am responding on behalf of J. Ruth Kennedy, Medicaid Director, to your email below regarding the Notice of Intent for Free-Standing Birthing Centers which was published in the April 20, 2015 edition of the *Louisiana Register*.

The Notice of Intent proposes to adopt provisions to establish coverage and reimbursement for labor and delivery services rendered to Medicaid eligible pregnant women by providers at free-standing birthing centers (FSBCs), including certified licensed midwives.

As a result of the comments received, the department determined that changes were needed to the proposed Rule in order to further clarify these provisions. The revisions were published in a Substantive Changes and Public Hearing Notification Potpourri in the August 20, 2015 edition of the *Louisiana Register*. The public hearing on these substantive changes will be held on Thursday, September 24, 2015 at 9:30 a.m. in conference room 118 of the Bienville Building, 628 North 4th Street, Baton Rouge, LA 70802. For your reference, attached are the April 20, 2015 Notice of Intent and the August 20, 2015 Substantive Changes and Public Hearing Notification Potpourri.

The Department has noted your concerns regarding the proposed regulations and would like to thank you for taking the time to provide comments. We hope that that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

My contact information is included in my signature below, should you have any questions or comments regarding Medicaid administrative rulemaking activity.

Veronica Y. Dent
Medicaid Program Manager
Rulemaking Unit
Medicaid Policy and Compliance Section
Phone: 225-342-3238 | Fax: 225-376-4777
veronica.dent@la.gov
Mon-Fri, 7:30 a.m. – 4:00 p.m.

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From: Ryan D Dickerson <rdickersonmd@yahoo.com>

Date: May 29, 2015 at 4:33:23 PM EDT

To: "Rebekah E. Gee" <rgee@lsuhsc.edu>

Subject: Birth Center regulations

Rebekah,

Rumor has it there will be regulations put forth that will mandate that birth centers be prepared to administer epidurals. Is that true? If so, we will have to close our birth center.

Sincerely,

Ryan Dickerson

Sent from my iPhone



State of Louisiana
Department of Health and Hospitals
Office of the Secretary

October 6, 2015

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Chuck Kleckley, Speaker of the House
The Honorable David Heitmeier, Chair, Senate Committee on Health and Welfare
The Honorable Scott Simon, Chair, House Committee on Health and Welfare
The Honorable Jack Donahue, Chair, Senate Finance Committee
The Honorable James R. "Jim" Fannin, Chairman, House Appropriations Committee

FROM: Kathy H. Kliebert
Secretary *Approved*

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Managed Care for Physical and Behavioral Health - Behavioral Health Integration.

The Department published a Notice of Intent on this proposed Rule in the August 20, 2015 issue of the *Louisiana Register* (Volume 41, Number 8). A public hearing was held on September 24, 2015 at which only Department of Health and Hospitals staff were present. No oral testimony or written comments were received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the November 20, 2015 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

KHK/WJR/KAH

Attachments (3)

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Managed Care for Physical and Behavioral Health
Behavioral Health Integration
(LAC 50:I.Chapters 31-37)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:I.Chapters 31-40 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 amended the provisions governing the coordinated care network in order to change the name in this Subpart to *Managed Care for Physical and Basic Behavioral Health* and to incorporate other necessary programmatic changes (*Louisiana Register*, Volume 41, Number 5). This Notice of Intent also incorporated provisions to permit Medicaid eligible children identified in the *Melanie Chisholm, et al vs. Kathy Kliebert* class action litigation (hereafter referred to as *Chisholm* class members) to have the option of voluntarily enrolling into a participating health plan under the Bayou Health program.

Currently, specialized behavioral health services, including State Plan §1915(c) services for children and §1915(i) State Plan

services, are provided under the Louisiana Behavioral Health Partnership through a statewide management organization and carved out of the Bayou Health program.

The department now proposes to amend the provisions governing managed care for physical and basic behavioral health in order to reflect the integration of specialized behavioral health services into Bayou Health as a result of the narrowing of the statewide management organization's scope of service administration for certain behavioral health services. This proposed Rule will also amend the provisions governing recipient participation in order to enroll additional populations into Bayou Health that had been exempt/excluded from participation.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Managed Care for Physical and Behavioral Health

Chapter 31. General Provisions

§3101. Introduction

A. - A.5. ...

B. Effective for dates of service on or after December 1, 2015, the department will operate a managed care delivery system for an expanded array of services to include comprehensive, integrated physical and behavioral health (basic and specialized) services, named the Bayou Health program, utilizing one model, a

risk bearing managed care organization (MCO), hereafter referred to as a "MCO".

C. It is the department's intent to procure the provisions of healthcare services statewide to Medicaid enrollees participating in the Bayou Health program from risk bearing MCOs through the competitive bid process.

1. The number of MCOs shall be no more than required to meet the Medicaid enrollee capacity requirements and ensure choice for Medicaid recipients as required by federal statute.

D. - D.1. 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 37:1573 (June 2011), amended LR 41:928 (May 2015), LR 41:

§3103. Recipient Participation

A. The following Medicaid recipients shall be mandatory participants in coordinated care networks:

1. mandatory enrollees:

a. children up to 19 years of age who are eligible under §1902 and §1931 of the Social Security Act (hereafter referred to as the Act) as poverty-level related groups and optional groups of older children;

b. parents and caretaker relatives who are eligible under §1902 and §1931 of the Act;

c. Children's Health Insurance Program (CHIP) (Title XXI) children enrolled in Medicaid expansion program (LaCHIP Phase I, II, III);

d. CHIP (Title XXI) prenatal care option (LaCHIP Phase IV) and children enrolled in the separate, stand-alone CHIP program (LaCHIP Phase V);

e. pregnant women whose basis for eligibility is pregnancy, who are only eligible for pregnancy-related services, and whose eligibility extends until 60 days after the pregnancy ends;

f. non-dually eligible aged, blind, and disabled adults over the age of 19;

g. uninsured women under the age of 65 who have been screened through the Centers for Disease Control National Breast and Cervical Cancer Early Detection Program and identified as being in need of treatment for breast and/or cervical cancer, including pre-cancerous conditions and early stage cancer, and are not otherwise eligible for Medicaid;

h. individuals eligible through the Tuberculosis Infected Individual Program;

i. former foster care children eligible under §1902(a)(10)(A)(i)(IX) and (XVII) of the Act; or

i. - v. Repealed.

j. individuals and families who have more income than is allowed for Medicaid eligibility, but who meet the standards for the Regular Medically Needy Program.

2. - 3. Repealed.

B. Mandatory, Voluntary Opt-In Participants

1. Participation in an MCO for the following participants is mandatory for specialized behavioral health and non-emergency medical transportation (NEMT) services only, and is voluntary for physical health services:

a. individuals who receive services under the authority of the following 1915(c) home and community-based services waivers; and

i. Adult Day Health Care (ADHC) waiver;

ii. Community Choices Waiver (CCW);

iii. New Opportunities Waiver (NOW);

iv. Children's Choice (CC) waiver;

v. Residential Options Waiver (ROW); and

vi. Supports Waiver (SW);

b. individuals under the age of 21 who are otherwise eligible for Medicaid, and who are listed on the DHH Office for Citizens with Developmental Disabilities' Request for Services Registry. These children are identified as *Chisholm* class members:

- i. ...
- ii. Repealed.

C. Mandatory, voluntary opt-in populations may initially elect to receive physical health services through Bayou Health at any time.

D. Mandatory, voluntary opt-in populations who elected to receive physical health services through Bayou Health, but returned to legacy Medicaid for physical health services, may return to Bayou Health for physical health services only during the annual open enrollment period.

- 1. - 1.f. Repealed.

E. Mandatory MCO Populations - Specialized Behavioral Health Services Only

1. The following populations are mandatory enrollees in Bayou Health for specialized behavioral health services only:

- a. individuals residing in nursing facilities;

and

- b. individuals under the age of 21 residing in intermediate care facilities for persons with intellectual disabilities (ICF/ID).

F. Mandatory MCO Populations - Specialized Behavioral Health and NEMT Services Only

1. Individuals who receive both Medicare and Medicaid (e.g. Medicaid dual eligibles) are mandatory enrollees in Bayou

Health for specialized behavioral health and non-emergency medical transportation services only.

G. The enrollment broker will ensure that all participants are notified at the time of enrollment that they may request disenrollment from the MCO at any time for cause.

H. Participation Exclusion

1. The following Medicaid and/or CHIP recipients are excluded from participation in an MCO and cannot voluntarily enroll in an MCO. Individuals who:

- a. reside in an ICF/ID (adults);
- b. are partial dual eligibles;
- c. receive services through the Program for All-Inclusive Care for the Elderly (PACE);
- d. have a limited period of eligibility and participate in either the Spend-Down Medically Needy Program or the Emergency Services Only program;
- e. receive services through the Take Charge Plus program; or
- f. are participants in the Greater New Orleans Community Health Connection (GNOCHC) Waiver program.

I. The department reserves the right to institute a medical exemption process for certain medically high risk recipients that may warrant the direct care and supervision of a non-primary care specialist on a case by case basis.

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 36:2465 (November 2010), LR 37:680 (February 2011)], LR 37:1573 (June 2011), amended LR 40:310 (February 2014), LR 40:1096 (June 2014), LR 40:2258 (November 2014), LR 41:929 (May 2015), LR 41:

§3105. Enrollment Process

A. - C.3. ...

D. Special Open Enrollment Period for Specialized Behavioral Health Integration

1. The department, through its enrollment broker, will provide an opportunity for all populations to be mandatorily enrolled into Bayou Health for specialized behavioral health services. These populations will be given a 60-day choice period to proactively choose an MCO.

2. Each potential MCO member shall receive information and the offer of assistance with making informed choices about the participating MCOs and the availability of choice counseling.

a. - b. Repealed.

3. During the special enrollment period, current members who do not proactively request reassignment will remain with their existing MCO.

4. These new members will be encouraged to make a choice among the participating MCOs. When no choice is made, auto-assignment will be used as outlined in §3105.G.2.a.

E. Special Enrollment Provisions for Mandatory, Opt-In Population Only

1. Mandatory, opt-in populations may request participation in Bayou Health for physical health services at any time. The effective date of enrollment shall be no later than the first day of the second month following the calendar month the request for enrollment is received. Retroactive begin dates are not allowed.

2. The enrollment broker will ensure that all mandatory, opt-in populations are notified at the time of enrollment of their ability to disenroll for physical health at any time. The effective date will be the first day of a month, and no later than the first day of the second month following the calendar month the request for disenrollment is received.

a. - a.i. Repealed.

3. Following an opt-in for physical health and selection of an MCO and subsequent 90-day choice period, these members will be locked into the MCO for 12 months from the effective date of enrollment or until the next annual enrollment period unless they elect to disenroll from physical health.

4. - 5.b. Repealed.

F. Enrollment of Newborns. Newborns of Medicaid eligible mothers, who are enrolled at the time of the newborn's birth, will be automatically enrolled with the mother's MCO, retroactive to the month of the newborn's birth.

1. If there is an administrative delay in enrolling the newborn and costs are incurred during that period, the member shall be held harmless for those costs and the MCO shall pay for these services.

a. - c. Repealed.

2. The MCO and its providers shall be required to:

a. report the birth of a newborn within 48 hours by requesting a Medicaid identification (ID) number through the department's online system for requesting Medicaid ID numbers; and

b. complete and submit any other Medicaid enrollment form required by the department.

2.c. - 3. Repealed.

G. Selection of an MCO

1. As part of the eligibility determination process, Medicaid and LaCHIP applicants, for whom the department determines eligibility, shall receive information and assistance with making informed choices about participating MCOs from the enrollment broker. These individuals will be afforded the opportunity to indicate the plan of their choice on their Medicaid financial

application form or in a subsequent contract with the department prior to determination of Medicaid eligibility.

a. - c. Repealed.

2. All new recipients who have made a proactive selection of an MCO shall have that MCO choice transmitted to the enrollment broker immediately upon determination of Medicaid or LaCHIP eligibility. The member will be assigned to the MCO of their choosing unless the plan is otherwise restricted by the department.

a. Recipients who fail to choose an MCO shall be automatically assigned to an MCO by the enrollment broker, and the MCO shall be responsible to assign the member to a primary care provider (PCP) if a PCP is not selected at the time of enrollment into the MCO.

b. For mandatory populations for all covered services as well as mandatory, specialized behavioral health populations, the auto-assignment will automatically enroll members using a hierarchy that takes into account family/household member enrollment, or a round robin method that maximizes preservation of existing specialized behavioral health provider-recipient relationships.

3. All new recipients shall be immediately, automatically assigned to an MCO by the enrollment broker if they

did not select an MCO during the financial eligibility determination process.

4. All new recipients will be given 90 days to change plans if they so choose.

5. The following provisions will be applicable for recipients who are mandatory participants.

a. If there are two or more MCOs in a department designated service area in which the recipient resides, they shall select one.

b. Recipients may request to transfer out of the MCO for cause and the effective date of enrollment into the new plan shall be no later than the first day of the second month following the calendar month that the request for disenrollment is filed.

H. Automatic Assignment Process

1. The following participants shall be automatically assigned to an MCO by the enrollment broker in accordance with the department's algorithm/formula and the provisions of §3105.E:

a. mandatory MCO participants, with the exceptions noted in §3105.G.2.a.i.;

b. pregnant women with Medicaid eligibility limited to prenatal care, delivery and post-partum services; and

c. other recipients as determined by the department.

2. MCO automatic assignments shall take into consideration factors including, but not limited to:
 - a. assigning members of family units to the same MCO;
 - b. existing provider-enrollee relationships;
 - c. previous MCO-enrollee relationship;
 - d. MCO capacity; and
 - e. MCO performance outcome indicators.

3. MCO assignment methodology shall be available to recipients upon request to the enrollment broker.

I. Selection or Automatic Assignment of a Primary Care Provider for Mandatory Populations for All Covered Services

1. The MCO is responsible to develop a PCP automatic assignment methodology in accordance with the department's requirements for the assignment of a PCP to an enrollee who:
 - a. does not make a PCP selection after being offered a reasonable opportunity by the MCO to select a PCP;
 - b. selects a PCP within the MCO that has reached their maximum physician/patient ratio; or
 - c. selects a PCP within the MCO that has restrictions/limitations (e.g. pediatric only practice).
2. The PCP automatically assigned to the member shall be located within geographic access standards, as specified in the contract, of the member's home and/or who best meets the needs of

the member. Members for whom an MCO is the secondary payor will not be assigned to a PCP by the MCO, unless the member requests that the MCO do so.

3. If the enrollee does not select an MCO and is automatically assigned to a PCP by the MCO, the MCO shall allow the enrollee to change PCP, at least once, during the first 90 days from the date of assignment to the PCP. Effective the ninety-first day, a member may be locked into the PCP assignment for a period of up to nine months beginning from the original date that he/she was assigned to the MCO.

4. If a member requests to change his/her PCP for cause at any time during the enrollment period, the MCO must agree to grant the request.

J. Lock-In Period

1. Members have 90 days from the initial date of enrollment into an MCO in which they may change the MCO for any reason. Medicaid enrollees may only change MCOs without cause within the initial 90 days of enrollment in an MCO. After the initial 90-day period, Medicaid enrollees/members shall be locked into an MCO until the annual open enrollment period, unless disenrolled under one of the conditions described in this Section, with the exception of the mandatory, opt-in populations, who may disenroll from Bayou Health for physical health and return to legacy Medicaid at any time.

K. Annual Open Enrollment

1. The department will provide an opportunity for all MCO members to retain or select a new MCO during an annual open enrollment period. Notification will be sent to each MCO member and voluntary members who have opted out of participation in Bayou Health at least 60 days prior to the effective date of the annual open enrollment. Each MCO member shall receive information and the offer of assistance with making informed choices about MCOs in their area and the availability of choice counseling.

2. Members shall have the opportunity to talk with an enrollment broker representative who shall provide additional information to assist in choosing the appropriate MCO. The enrollment broker shall provide the individual with information on each MCO from which they may select.

3. During the open enrollment period, each Medicaid enrollee shall be given the option to either remain in their existing MCO or select a new MCO.

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 37:1574 (June 2011), amended LR 40:310 (February 2014), LR 40:1097 (June 2014), LR 41:929 (May 2015), LR 41:

§3107. Disenrollment and Change of Managed Care Organization

A. - D.1.e.ii. ...

iii. the member's active specialized behavioral health provider ceases to contract with the MCO; or

iv. documented lack of access to providers experienced in dealing with the enrollee's health care needs.

E. Involuntary Disenrollment

1. The MCO may submit an involuntary disenrollment request to the enrollment broker, with proper documentation for fraudulent use of the MCO identification card. In such cases, the MCO shall report the incident to the Bureau of Health Services Financing.

a. - b. Repealed.

2. - 4.f. ...

g. uncooperative or disruptive behavior resulting from his or her special needs;

h - i. ...

F. Department Initiated Disenrollment

1. The department will notify the MCO of the member's disenrollment or change in eligibility status due to the following reasons:

a. - G.2. ...

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 37:1575 (June 2011), amended LR 40:311 (February 2014), LR 41:931 (May 2015), LR 41:

§3109. Member Rights and Responsibilities

A. - A.10. ...

11. be furnished health care services in accordance with all other applicable federal regulations.

B. - C.8. ...

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 37:1576 (June 2011), amended LR 40:311 (February 2014), LR 41:930 (May 2015), LR 41:

Chapter 35. Managed Care Organization Participation Criteria

§3501. Participation Requirements

A. - B.5. ...

6. have a network capacity to enroll a minimum of 250,000 Medicaid and LaCHIP eligibles; and

7. - 9. ...

C. An MCO shall ensure the provision of core benefits and services to Medicaid enrollees as specified in the terms of the contract.

D. - I.4. ...

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 37:1583 (June 2011), amended LR 41:933 (May 2015), LR 41:

§3503. Managed Care Organization Responsibilities

A. - P.1. ...

a. The MCO must submit all proposed changes to the member handbooks and/or provider handbooks to the department for review and approval in accordance with the terms of the contract and the department issued guides.

b. ...

Q. The member handbook shall include, but not be limited to:

1. - 3. ...

a. a member's right to disenroll from the MCO, including disenrollment for cause;

b. - 4.c. ...

5. the amount, duration, and scope of benefits available under the MCO's contract with the department in sufficient detail to ensure that members have information needed to aid in understanding the benefits to which they are entitled including, but not limited to:

- a. specialized behavioral health;
- b. information about health education and promotion programs, including chronic care management;
- c. the procedures for obtaining benefits, including prior authorization requirements and benefit limits;
- d. how members may obtain benefits, including family planning services, from out-of-network providers;
- e. how and where to access any benefits that are available under the Louisiana Medicaid State Plan, but are not covered under the MCO's contract with the department;
- f. information about early and periodic screening, diagnosis and treatment (EPSDT) services;
- g. how transportation is provided, including how to obtain emergency and non-emergency medical transportation;
- h. the post-stabilization care services rules set forth in 42 CFR 422.113(c);
- i. the policy on referrals for specialty care, including specialized behavioral health services and other benefits not furnished by the member's primary care provider;
- j. for counseling or referral services that the MCO does not cover because of moral or religious objections, the MCO is required to furnish information on how or where to obtain the service;

k. how to make, change, and cancel medical appointments and the importance of canceling and/or rescheduling rather than being a "no show";

l. the extent to which and how after-hour crisis and emergency services are provided; and

m. information about the MCO's formulary and/or preferred drug list (PDL), including where the member can access the most current information regarding pharmacy benefits;

6. - 7. ...

8. instructions on how to request multi-lingual interpretation and translation services when needed at no cost to the member. This information shall be included in all versions of the handbook in English and Spanish;

9. grievance, appeal, and state fair hearing procedures and time frames as described in 42 CFR §438.400 through §438.424 and the MCO's contract with the department; and

10. information regarding specialized behavioral health services, including but not limited to:

a. a description of covered behavioral health services;

b. where and how to access behavioral health services and behavioral health providers, including emergency or crisis services;

- c. general information on the treatment of behavioral health conditions and the principles of:
 - i. adult, family, child, youth and young adult engagement;
 - ii. resilience;
 - iii. strength-based and evidence-based practices; and
 - iv. best/proven practices;
- d. description of the family/caregiver or legal guardian role in the assessment, treatment, and support for individuals with an emphasis on promoting engagement, resilience, and the strengths of individuals and families; and
- e. any limitations involving the provision of information for adult persons who do not want information shared with family members, including age(s) of consent for behavioral health treatment, as per 42 CFR Part 2.

R. The provider handbook shall include, but not be limited to:

- 1. - 4. ...
- 5. grievance and appeals procedures and process;
- 6. other policies, procedures, guidelines, or manuals containing pertinent information related to operations and pre-processing claims;
- 7. description of the MCO;

8. core benefits and services the MCO must provide, including a description of all behavioral health services;

9. information on how to report fraud, waste and abuse; and

10. information on obtaining transportation for members.

S. The provider directory for members shall be developed in four formats:

1. ...

2. an accurate electronic file refreshed weekly of the directory in a format to be specified by the department and used to populate a web-based online directory for members and the public;

3. an accurate electronic file refreshed weekly of the directory for use by the enrollment broker; and

4. a hard copy abbreviated version, upon request by the enrollment broker.

T. - T.1. ...

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 37:1583 (June 2011), amended LR 39:92 (January 2013), LR 40:66 (January 2014), LR 41:933 (May 2015), LR 41:

§3507. Benefits and Services

A. - C.4. ...

D. The following is a summary listing of the core benefits and services that an MCO is required to provide:

1. - 5. ...

6. EPSDT/Well Child visits, excluding applied behavior analysis (ABA) therapy services and dental services;

7. - 12. ...

13. basic and specialized behavioral health services, excluding Coordinated System of Care services;

14. - 18. ...

19. pharmacy services (outpatient prescription medicines dispensed, with the exception of those who are enrolled in Bayou Health for behavioral health services only, or the contractual responsibility of another Medicaid managed care entity):

a. specialized behavioral health only members will receive pharmacy services through legacy Medicaid;

20. ...

21. personal care services (age 0-20);

22. pediatric day healthcare services;

23. audiology services;

24. ambulatory surgical services;

25. laboratory and radiology services;

26. emergency and surgical dental services;
27. clinic services;
28. pregnancy-related services;
29. pediatric and family nurse practitioner services;
30. licensed mental health professional services,
including advanced practice registered nurse (APRN) services;
31. federally qualified health center (FQHC)/rural
health clinic (RHC) services;
32. early stage renal disease (ESRD) services;
33. optometry services;
34. podiatry services;
35. rehabilitative services, including crisis
stabilization;
36. respiratory services; and
37. section 1915(i) services.

NOTE: ...

E. Transition Provisions

1. In the event a member transitions from an MCO included status to an MCO excluded status or MCO specialized behavioral health only status before being discharged from a hospital and/or rehabilitation facility, the cost of the entire admission will be the responsibility of the MCO. This is only one example and does not represent all situations in which the MCO is responsible for cost of services during a transition.

2. - F.1. ...

G. Excluded Services

1. The following services will continue to be reimbursed by the Medicaid Program on a fee-for-service basis, with the exception of dental services which will be reimbursed through a dental benefits prepaid ambulatory health plan under the authority of a 1915(b) waiver. The MCO shall provide any appropriate referral that is medically necessary. The department shall have the right to incorporate these services at a later date if the member capitation rates have been adjusted to incorporate the cost of such service. Excluded services include:

a. ...

b. intermediate care facility services for persons with intellectual disabilities;

c. personal care services (age 21 and over);

d. nursing facility services;

e. individualized education plan services provided by a school district and billed through the intermediate school district, or school-based services funded with certified public expenditures;

f. ABA therapy services;

g. targeted case management services; and

h. all OAAS/OCDD home and community-based §1915(c) waiver services.

i. Repealed.

H. Utilization Management

1. ...

a. The MCO shall submit UM policies and procedures to the department for written approval annually and subsequent to any revisions.

2. - 5. ...

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 37:185 (June 2011), amended LR 39:92 (January 2013), repromulgated LR 39:318 (February 2013), LR 41:936 (May 2015), LR 41:

§3509. Reimbursement Methodology

A. ...

1. The department will establish monthly capitation rates within an actuarially sound rate range certified by its actuaries. Consistent with all applicable federal rules and regulations, the rate range will initially be developed using fee-for-service claims data, Bayou Health shared savings claims data, Bayou Health managed care organization encounter data, Louisiana Behavioral Health Partnership (LBHP) encounter data, financial data reported by Bayou Health plans and the LBHP statewide

management organization, supplemental ad hoc data, and actuarial analyses with appropriate adjustments.

2. ...

3. Capitation rates will be set for all MCOs at the beginning of each contract period and will be periodically reviewed and adjusted as deemed necessary by the department.

a. - d. Repealed.

4. Capitation rates for physical and basic behavioral health will be risk-adjusted for the health of Medicaid enrollees enrolled in the MCO. Capitation rates for specialized behavioral health will not be risk-adjusted.

a. The health risk of the Medicaid enrollees enrolled in the MCO will be measured using a national-recognized risk-assessment model.

b. Utilizing this information, the capitation rates will be adjusted to account for the health risk of the enrollees in each MCO relative to the overall population being measured.

c. The health risk of the members and associated MCO risk scores will be updated periodically to reflect changes in risk over time.

d. The department will provide the MCO with advance notice of any major revision to the risk-adjustment methodology.

5. An MCO shall be reimbursed a one-time supplemental lump sum payment, hereafter referred to as a "maternity kick payment", for each obstetrical delivery in the amount determined by the department's actuary.

a. The maternity kick payment is intended to cover the cost of prenatal care, the delivery event, and postpartum care. Payment will be paid to the MCO upon submission of satisfactory evidence of the occurrence of a delivery.

b. Only one maternity kick payment will be made per delivery event. Therefore, multiple births during the same delivery will still result in one maternity kick payment being made.

c. The maternity kick payment will be paid for both live and still births. A maternity kick payment will not be reimbursed for spontaneous or induced abortions.

6. Capitation rates related to pharmacy services will be adjusted to account for pharmacy rebates.

B. - E. ...

F. An MCO shall have a medical loss ratio (MLR) for each MLR reporting year, which shall be a calendar year.

1. Following the end of the MLR reporting year, an MCO shall provide an annual MLR report, in accordance with the financial reporting guide issued by the department.

2. The annual MLR report shall be limited to the MCO's medical loss ratio for services provided to Medicaid enrollees and payment received under the contract with the department, separate from any other products the MCO may offer in the state of Louisiana.

3. An MLR shall be reported in the aggregate, including all services provided under the contract.

a. The aggregate MLR shall not be less than 85 percent using definitions for health care services, quality initiatives and administrative cost as specified in 45 CFR Part 158. If the aggregate MLR is less than 85 percent, the MCO will be subject to refund the difference, within the timeframe specified, to the department. The portion of any refund due the department that has not been paid, within the timeframe specified, will be subject to interest at the current Federal Reserve Board lending rate or in the amount of 10 percent per annum, whichever is higher.

b. The department may request MLR reporting that distinguishes physical and basic behavioral health from specialized behavioral health. Neither the 85 percent minimum nor the refund applicable to the aggregate shall apply to distinct MLRs reported.

4. The department shall provide for an audit of the MCO's annual MLR report and make public the results within 60 calendar days of finalization of the audit.

G. - N.2.a. ...

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 37:1587 (June 2011), amended LR 39:92 (January 2013), repromulgated LR 39:318 (February 2013), LR 41:937 (May 2015), LR 41:

Chapter 37. Grievance and Appeal Process

Subchapter A. Member Grievances and Appeals

§3705. General Provisions

A. ...

B. Filing Requirements

1. Authority to file. A member, or a representative of his/her choice, including a network provider acting on behalf of the member and with the member's consent, may file a grievance and an MCO level appeal. Once the MCO's appeals process has been exhausted, a member or his/her representative, with the member's written consent, may request a state fair hearing.

a. - J. ... 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 37:1590 (June 2011), amended LR 41:939 (May 2015), 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 or autonomy as described in R.S. 49:972 by providing families with better coordination of their total health care services and increasing the quality and continuity of care for the individual and the entire family.

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 through better coordinated health care services and increased continuity of care.

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. 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



State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
September 24, 2015
9:30 a.m.

RE: Managed Care for Physical and Behavioral Health
Behavioral Health Integration
Docket # 09242015-6
Department of Health and Hospitals
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on September 24, 2015 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in blue ink, appearing to read "Robert K. Andrepont".

Robert K. Andrepont
Medicaid Policy and
Compliance Section

09-24-15
Date

DHH/BHSF PUBLIC HEARING

Topic - Managed Care for Physical and Behavioral Health-Behavioral Health Integration

Date - September 24, 2015

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Zekeidra Knight	628 N. 4th St B.R. LA 70802	225.342.6943	DHH / BHSF
2.			
3.			
4.			
5.			
6.			



State of Louisiana
Department of Health and Hospitals
Office of the Secretary

October 6, 2015

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Chuck Kleckley, Speaker of the House
The Honorable David Heitmeier, Chair, Senate Committee on Health and Welfare
The Honorable Scott Simon, Chair, House Committee on Health and Welfare
The Honorable Jack Donahue, Chair, Senate Finance Committee
The Honorable James R. "Jim" Fannin, Chairman, House Appropriations Committee

FROM: Kathy H. Kliebert
Secretary

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Medicaid Eligibility - Louisiana Health Insurance Premium Payment Program Termination.

The Department published a Notice of Intent on this proposed Rule in the August 20, 2015 issue of the *Louisiana Register* (Volume 41, Number 8). A public hearing was held on September 24, 2015 at which only Department of Health and Hospitals staff were present. No oral testimony or written comments were received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the November 20, 2015 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

KHK/WJR/RKA

Attachments (3)

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Medicaid Eligibility
Louisiana Health Insurance Premium Payment Program Termination
(LAC 50:III.2311)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to repeal LAC 50:III.2311 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 repromulgated and clarified the provisions governing the Group Health Insurance Premium Payment Program for inclusion in the *Louisiana Administrative Code*, and changed the name of the program to the Louisiana Health Insurance Premium Payment Program (LaHIPP) (*Louisiana Register*, Volume 35, Number 6).

Due to a budgetary shortfall resulting from the funding for LaHIPP being removed from the executive budget in state fiscal year 2016, the department has now determined that it is necessary to terminate this program. The department proposes to repeal the provisions of the June 20, 2009 Rule governing LaHIPP in order to facilitate the program termination.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE
Part III. Eligibility
Subpart 3. Eligibility Groups and Factors

Chapter 23. Eligibility Groups and Medicaid Programs

§2311. Louisiana Health Insurance Premium Payment Program

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 35:1111 (June 2009), repealed 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, but may increase direct or indirect cost to the provider to provide the same level of service due to the termination of Medicaid payment of the patient responsibility amounts for services rendered to recipients covered under group health insurance. The proposed Rule may also have a negative impact on the provider's ability to provide the same level of service as described in HCR 170 if the reduction in payments adversely impacts the provider's financial standing.

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, 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



State of Louisiana

Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
September 24, 2015
9:30 a.m.

RE: Medicaid Eligibility
Louisiana Health Insurance Premium Payment
Program Termination
Docket # 09242015-7
Department of Health and Hospitals
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on September 24, 2015 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in blue ink, appearing to read "R. Andrepont", written over a horizontal line.

Robert K. Andrepont
Medicaid Policy and
Compliance Section

09-24-15

Date

DHH/BHSF PUBLIC HEARING

Topic – Medicaid Eligibility – Louisiana Health Insurance Premium Payment Program Termination

Date – September 24, 2015

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Zekaidra Knight	628 N. 4th St B.R. LA 70802	225.342.6943	DHH / BHSF
2. Bill Perkins	"	225 342 8935	DHH / BHSF
3.			
4.			
5.			
6.			



State of Louisiana
Department of Health and Hospitals
Office of the Secretary

October 6, 2015

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Chuck Kleckley, Speaker of the House
The Honorable David Heitmeier, Chair, Senate Committee on Health and Welfare
The Honorable Scott Simon, Chair, House Committee on Health and Welfare
The Honorable Jack Donahue, Chair, Senate Finance Committee
The Honorable James R. "Jim" Fannin, Chairman, House Appropriations Committee

FROM: Kathy H. Kliebert
Secretary *Approved for*

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Psychiatric Residential Treatment Facilities.

The Department published a Notice of Intent on this proposed Rule in the August 20, 2015 issue of the *Louisiana Register* (Volume 41, Number 8). A public hearing was held on September 24, 2015 at which only Department of Health and Hospitals staff were present. No oral testimony or written comments were received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the November 20, 2015 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

KHK/WJR/CEC

Attachments (3)

NOTICE OF INTENT

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

Psychiatric Residential Treatment Facilities
(LAC 50:XXXIII Chapters 101-107)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.Chapters 101-107 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 provides inpatient behavioral health services to children with emotional/behavioral disorders in psychiatric residential treatment facilities (PRTFs) under the coordinated behavioral health services system.

The department now proposes to amend the provisions governing PRTFs to: 1) allow an Office of Behavioral Health appointed designee to certify providers; 2) revise the terminology to be consistent with current program operations; and 3) revise the reimbursement methodology to remove the provisions governing interim payments, and to establish capitation payments to managed care organizations for children's

services other than CSoC. For children/youth enrolled in CSoC, the non-risk payments shall be continued and payments made to a CSoC contractor.

TITLE 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XXXIII. Behavioral Health Services
Subpart 11. Psychiatric Residential Treatment Facility Services
Chapter 101. General Provisions

§10101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid State Plan for behavioral health services rendered to children and youth in an inpatient psychiatric residential treatment facility (PRTF). These services shall be administered under the authority of the Department of Health and Hospitals, in collaboration with managed care organizations and 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. ...

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 38:369 (February 2012), amended by the Department of Health and

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

§10103. Recipient Qualifications

A. Individuals under the age of 21 with an identified mental health or substance use diagnosis, who meet Medicaid eligibility and clinical criteria, shall qualify to receive inpatient psychiatric residential treatment facility 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 38:369 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 103. Services

§10301. General Provisions

A. - C.1. ...

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.

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 38:369 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§10303. Covered Services

A. - B.1. ...

2. group education, including elementary and secondary education; and

3. activities not on the inpatient psychiatric active treatment plan.

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 38:369 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 105. Provider Participation

§10501. Provider Responsibilities

A. Each provider of PRTF services shall enter into a contract with one or more of the MCOs and the CSoC contractor in order to receive reimbursement for Medicaid covered services.

B. - C. ...

D. Anyone providing PRTF 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. PRTF facilities shall be accredited by an approved accrediting body and maintain such accreditation. Denial, loss of or any negative change in accreditation status must be

reported to its contracted MCOs and the CSoC contractor in writing within the time limit established by the department.

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 38:369 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 107. Reimbursement

§10701. General Provisions

A. For recipients enrolled with the CSoC contractor, reimbursement for services shall be based upon the established Medicaid fee schedule for behavioral health services. For recipients enrolled in one of the MCOs, the department or its fiscal intermediary shall make monthly capitation payments to the MCOs. 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. Covered inpatient, physician-directed PRTF services rendered to children and youth shall be reimbursed according to the following criteria:

1. Free-Standing PRTF Facilities. The per diem rate shall include reimbursement for the following services when included on the active treatment plan:

a. - e. ...

2. A free-standing PRTF shall arrange through contract(s) with outside providers to furnish dental, vision, and diagnostic/radiology treatment activities as listed on the treatment plan. The treating provider will be directly reimbursed by the MCO or the CSoC contractor.

3. Hospital-Based PRTF Facilities. A hospital-based PRTF facility shall be reimbursed a per diem rate for covered services. The per diem rate shall also include reimbursement for the following services when included on the active treatment plan:

a. - d. ...

4. Pharmacy and physician services shall be reimbursed when included on the recipient's active plan of care and are components of the Medicaid covered PRTF services. The MCO or the CSoC contractor shall make payments directly to the treating physician. The MCO shall also make payments directly to the pharmacy. These payments shall be excluded from the PRTF's contracted per diem rate for the facility.

B. All in-state Medicaid participating PRTF providers are required to file an annual Medicaid cost report in accordance with Medicare/Medicaid allowable and non-allowable costs.

C. Cost reports must be submitted annually. The due date for filing annual cost reports is the last day of the fifth month following the facility's fiscal year end. Separate cost reports must be filed for the facility's central/home office when costs of that entity are reported on the facility's cost report. If the facility experiences unavoidable difficulties in preparing the cost report by the prescribed due date, a filing extension may be requested. A filing extension must be submitted to Medicaid prior to the cost report due date.

1. Facilities filing a reasonable extension request will be granted an additional 30 days to file their cost report.

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 38:370 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§10703. In-State Publicly Owned and Operated Psychiatric Residential Treatment Facilities

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 38:370 (February 2012), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§10703. Reimbursement Methodology (Reserved)

§10705. In-State Psychiatric Residential Treatment Facilities

A. In-State publicly and privately owned and operated PRTFs shall be reimbursed for covered PRTF services according to the following provisions. The rate paid by the MCO or the CSoc contractor shall take into consideration the following ownership and service criteria:

1. free-standing PRTFs specializing in sexually-based treatment programs;
2. free-standing PRTFs specializing in substance use treatment programs;
3. free-standing PRTFs specializing in behavioral health treatment programs;
4. hospital-based PRTFs specializing in sexually-based treatment programs;
5. hospital-based PRTFs specializing in substance use treatment programs; and

6. hospital-based PRTFs specializing in behavioral health treatment programs.

B. - D. ...

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 38:370 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§10707. Out-of-State Psychiatric Residential Treatment Facilities

A. Out-of-state PRTFs shall be reimbursed in accordance with the MCO or CSOC contractor's established 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 38:370 (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. 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



State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
September 24, 2015
9:30 a.m.

RE: Psychiatric Residential Treatment Facilities
Docket # 09242015-8
Department of Health and Hospitals
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on September 24, 2015 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.



Robert K. Andrepont
Medicaid Policy and
Compliance Section

09-24-15

Date

DHH/BHSF PUBLIC HEARING

Topic - Psychiatric Residential Treatment Facilities

Date - September 24, 2015

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1.			
2. Zekeidra Knight	628 N. 4th St B.R. LA 70802	225.342.6943	DHH / BHSF
3.			
4.			
5.			
6.			

Bobby Jindal
GOVERNOR



Kathy H. Kliebert
SECRETARY

State of Louisiana
Department of Health and Hospitals
Office of the Secretary

October 6, 2015

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Chuck Kleckley, Speaker of the House
The Honorable David Heitmeier, Chair, Senate Committee on Health and Welfare
The Honorable Scott Simon, Chair, House Committee on Health and Welfare
The Honorable Jack Donahue, Chair, Senate Finance Committee
The Honorable James R. "Jim" Fannin, Chairman, House Appropriations Committee

FROM: Kathy H. Kliebert
Secretary

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Therapeutic Group Homes - Behavioral Health Integration.

The Department published a Notice of Intent on this proposed Rule in the August 20, 2015 issue of the *Louisiana Register* (Volume 41, Number 8). A public hearing was held on September 24, 2015 at which only Department of Health and Hospitals staff were present. No oral testimony or written comments were received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the November 20, 2015 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

KHK/WJR/KAH

Attachments (3)

NOTICE OF INTENT

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

**Therapeutic Group Homes
Behavioral Health Integration
(LAC 50:XXXIII.Chapters 121-127)**

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.Chapters 121-127 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 adopted provisions to implement a coordinated behavioral health services system under the Medicaid Program to provide behavioral health services to children with emotional/behavioral disorders in therapeutic group homes (TGHs) (*Louisiana Register*, Volume 38, Number 2).

The department now proposes to amend the provisions governing TGHs in order to: 1) allow an Office of Behavioral Health appointed designee to certify providers; 2) revise the terminology to be consistent with current program operations; and 3) revise

the reimbursement methodology to establish capitation payments to managed care organizations for children's services other than the coordinated system of care (CSoC) services. For children/youth enrolled in CSOC, the non-risk payments shall be continued and payments made to a CSOC contractor.

Title 50

**PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XXXIII. Behavioral Health Services
Subpart 13. Therapeutic Group Homes**

Chapter 121. General Provisions

§12101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid State Plan for behavioral health services rendered to children and youth in a therapeutic group home (TGH). These services shall be administered under the authority of the Department of Health and Hospitals, in collaboration with managed care organizations (MCOs) and 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. The CSOC contractor shall only manage specialized behavioral health services for children/youth enrolled in the CSOC program.

B. The specialized behavioral health services rendered shall be those services medically necessary to reduce the

disability resulting from the illness and to restore the individual to his/her best possible functioning level in the community.

C. A therapeutic group home provides a community-based residential service in a home-like setting of no greater than 10 beds under the supervision and program oversight of a psychiatrist or psychologist.

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 38:427 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§12103. Recipient Qualifications

A. ...

B. Qualifying children and adolescents with an identified mental health or substance use diagnosis shall be eligible to receive behavioral health services rendered by a TGH.

C. - C.3. ...

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 38:427 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 123. Services

§12301. General Provisions

A. - C.1. ...

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.

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 38:428 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§12303. Covered Services

A. - B.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;

4. - 6. ...

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 38:428 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 125. Provider Participation

§12501. Provider Responsibilities

A. Each provider of TGH services shall enter into a contract with one or more of the MCOs and the CSoC contractor for youth enrolled in the CSoC program in order to receive reimbursement for Medicaid covered services. Providers shall meet the provisions of this Rule, the provider manual, and the appropriate statutes.

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. Any services that exceed established limitations beyond the initial authorization must be approved for re-authorization prior to service delivery.

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

E. TGH facilities shall be accredited by an approved accrediting body and maintain such accreditation. Denial, loss of or any negative change in accreditation status must be reported to their contracted MCOs and the CSoC contractor for youth enrolled in the CSoC program in writing within the time limit established by the department.

F. Providers of TGH services shall be required to perform screening and assessment services upon admission and within the timeframe established by the department thereafter to track progress and revise the treatment plan to address any lack of progress and to monitor for current medical problems and concomitant substance use issues.

G. A TGH must ensure that youth are receiving appropriate therapeutic care to address assessed needs on the child's treatment plan.

1. Therapeutic care may include treatment by TGH staff, as well as community providers.

2. Treatment provided in the TGH or in the community should incorporate research-based approaches appropriate to the child's needs, whenever possible.

H. For TGH facilities that provide care for sexually deviant behaviors, substance abuse, or dually diagnosed individuals, the facility shall submit documentation to their contracted MCOs and the CSoC contractor for youth enrolled in the CSoC program regarding the appropriateness of the research-based, trauma-informed programming and training, as well as compliance with ASAM level of care being provided.

I. A TGH must incorporate at least one research-based approach pertinent to the sub-populations of TGH clients to be

served by the specific program. The specific research-based model to be used should be incorporated into the program description. The research-based models must be approved by OBH.

J. A TGH must provide the minimum amount of active treatment hours established by the department, and performed by qualified staff per week for each child, consistent with each child's plan of care and meeting assessed 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 38:428 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 127. Reimbursement

§12701. General Provisions

A. For recipients enrolled with the CSOC contractor, reimbursement for services shall be based upon the established Medicaid fee schedule for specialized behavioral health services. For recipients enrolled in one of the MCOs, the department or its fiscal intermediary shall make monthly capitation payments to the MCOs. 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.

1. Reimbursement for covered TGH services shall be inclusive of, but not limited to:

a. - d. ...

2. Allowable and non-allowable costs components, as defined by the department.

B. All in-state Medicaid participating TGH providers are required to file an annual Medicaid cost report according to the department's specifications and departmental guides and manuals.

C. Costs reports must be submitted annually. The due date for filing annual cost reports is the last day of the fifth month following the facility's fiscal year end. Separate cost reports must be filed for the facilities central/home office when costs of that entity are reported on the facilities cost report. If the facility experiences unavoidable difficulties in preparing the cost report by the prescribed due date, a filing extension may be requested. A filing extension must be submitted to Medicaid prior to the cost report due date.

1. Facilities filing a reasonable extension request will be granted an additional 30 days to file their cost report.

D. Services provided by psychologists and licensed mental health practitioners shall be billed to the MCO or CSoC contractor separately.

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 38:429 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§12703. Reimbursement Methodology (Reserved)

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 38:429 (February 2012), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR:41

§12705. In-State Therapeutic Group Homes

A. In-State publicly and privately owned and operated therapeutic group homes shall be reimbursed according to the MCO or CSoC contractor established rate within their contract.

B. 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 38:429 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR:41

§12707. Out-of-State Therapeutic Group Homes

A. Out-of-state therapeutic group homes shall be reimbursed for their services according to the rate established by the MCO or CSoC contractor.

B. Payments to out-of-state TGH facilities that provide covered services shall not be subject to TGH cost reporting requirements.

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 38:429 (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. 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



State of Louisiana

Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION

September 24, 2015

9:30 a.m.

RE: Therapeutic Group Homes
Behavioral Health Integration
Docket # 09242015-9
Department of Health and Hospitals
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on September 24, 2015 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in blue ink, appearing to read "Robert K. Andrepont", written over a horizontal line.

Robert K. Andrepont
Medicaid Policy and
Compliance Section

09-24-15

Date

DHH/BHSF PUBLIC HEARING

Topic – Therapeutic Group Homes- Behavioral Health Integration

Date – September 24, 2015

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1.			
2. Zekaida Knight	628 N. 4th St B. R. LA 70802	225.342.6943	DHH BHSF
3.			
4.			
5.			
6.			