

PUBLIC HEARING AGENDA



**May 26, 2016
9:30 A.M.**

***Please note room change from 118 to 173**

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**State of Louisiana
Department of Health & Hospitals
628 N. 4th Street
Baton Rouge, LA 70802**

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Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 60. Emergency Medical Transportation
Services
Subchapter B. Provider Responsibilities
§6037. Medical Protocol

A. - C.21. ...

D. The EMS service shall adopt the protocols established by the Louisiana Emergency Response Network (LERN) or develop an agency specific protocol with specific language related to the transportation of the following patients:

1. Acute stroke patients shall be transported to the closest appropriate primary stroke center, acute stroke ready hospital, or closest appropriate hospital if the patient exhibits a compromise of airway, breathing or circulatory function, or other potential life threatening emergency as defined by the protocols implemented by the ambulance service's medical director. Acute stroke patients may also be diverted to the closest appropriate hospital by order of LERN or online medical control from the local facility, potential receiving facility or medical director.

2. ...

3. In any case where the treating emergency medical technician's evaluation, according to protocol, indicates a potentially unstable condition or potential medical emergency that, if traveling the extra distance to the recommended appropriate facility could put the patient at higher risk, the emergency medical technician in his/her discretion may divert to the nearest appropriate facility.

E. - E.4. ...

F. Ambulance services are accountable for assuring compliance with applicable protocols by their personnel. Exceptions to these protocols must be reviewed on a case-by-case basis by the physician medical director.

1. Treatment decisions shall be considered given the current health status of the patient in conjunction with all of the associated risks factors including, but not limited to, distance to the nearest stroke facility.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1234.E.1 and 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:476 (March 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:2153 (October 2015), LR 42:

Family Impact Statement

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 as it will aid in improving mortality outcomes and reducing disability occurrences by providing vital emergency medical transportation services for cardiac and stroke patients.

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Emergency Medical Transportation Services
Ambulance Licensing Standards
(LAC 48:I.6037)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 48:I.6037 in the Medical Assistance Program as authorized by R.S. 36:254, R.S. 40:1231 and R.S.40:1235.2. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

In order to comply with the directives of House Concurrent Resolution (HCR) 92 of the 2015 Regular Session of the Louisiana Legislature, which directed the department to amend the provisions governing the licensing standards for ambulance service providers to establish protocols relative to the assessment and transport of patients with cardiac and stroke emergencies, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the licensing standards for emergency medical transportation services (*Louisiana Register*, Volume 41, Number 10).

The department has now determined that it is necessary to amend the provisions governing the licensing standards for emergency medical transportation services in order to further clarify these provisions.

Poverty Impact Statement

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 cardiac and stroke emergencies since these provisions are expected to improve the health outcomes of cardiac and stroke patients.

Provider Impact Statement

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.

Public Comments

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, May 26, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Emergency Medical Transportation Services, Ambulance Licensing Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 15-16. It is anticipated that \$540 (SGF) will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will not affect revenue collections since the licensing fees, in the same amounts, will continue to be collected.

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

This Rule is being promulgated to amend the provisions governing the licensing standards for emergency medical transportation services in order to further clarify the medical protocol for cardiac and stroke patients to comply with the

directives of House Concurrent Resolution 92 of the 2015 Regular Session of the Louisiana Legislature. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to emergency medical transportation providers for FY 15-16, FY 16-17 and FY 17-18.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile Castello
Health Standards Section Director
1604#071

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Medicaid Eligibility
Federally-Facilitated Marketplace Determinations
(LAC 50:III.505)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:III.505 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Patient Protection and Affordable Care Act (ACA) of 2010 requires that all applicants for coverage through the federal health insurance marketplace be assessed for eligibility in other government programs, including Medicaid. States are required to select a marketplace model that is state-based, federally-facilitated or working in partnership with the federal marketplace. States with a federally-facilitated marketplace (FFM), like Louisiana, must elect to either have the FFM make assessments of Medicaid eligibility and transfer the account to the state Medicaid agency for a final determination, or delegate the authority to make Medicaid eligibility determinations to the FFM. Initially, Louisiana elected to become a determination state and accepted eligibility determinations made by the FFM.

In August 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing Medicaid eligibility in order to become an assessment state and only accept eligibility assessments from the FFM (*Louisiana Register*, Volume 41, Number 8). The department has now determined that it is necessary to amend the provisions governing Medicaid eligibility in order to return to a determination state and accept Medicaid eligibility determinations made by the FFM.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 1. General Administration

Chapter 5. Application Processing

§505. Federally-Facilitated Marketplace Determinations

A. Effective April 20, 2016, Louisiana Medicaid will delegate its Medicaid eligibility determination authority to the federally-facilitated marketplace (FFM) in order to begin

accepting eligibility determinations made by the FFM for only those individuals who apply for healthcare coverage through the FFM. This action will result in the state becoming a determination state.

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 41:1489 (August 2015), amended LR 42:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

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.

Poverty Impact Statement

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.

Provider Impact Statement

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.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, May 26, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Medicaid Eligibility Federally-Facilitated Marketplace Determinations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 15-16. It is anticipated that \$432(\$216 SGF and \$216 FED) will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will not affect revenue collections other than the federal share of the promulgation costs for FY 15-16. It is anticipated that \$216 will be collected in FY 15-16 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This proposed Rule continues the provisions of the April 20, 2016 Emergency Rule which amended the provisions governing Medicaid eligibility in order for Louisiana Medicaid to return to a determination state and begin accepting Medicaid eligibility determinations made by the federally-facilitated marketplace in order to assist the Medicaid Program with eligibility determinations. It is anticipated that implementation of this proposed rule will not have economic costs or benefits for FY 15-16, FY 16-17 and FY 17-18.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Interim Medicaid Director
1604#072

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Medicaid Eligibility
Incurred Medical Expense Deductions
(LAC 50:III.16105)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to repeal the May 20, 2003 Rule governing incurred medical expenses in the Medicaid Program and proposes to adopt LAC 50:III.16105 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.

Pursuant to 42 CFR 435.725, medical expenses not subject to third-party payment that are incurred by nursing facility residents, including Medicare and other health insurance premiums, deductibles or coinsurance charges and necessary medical or remedial care recognized under state law, but not covered under the Medicaid State Plan are budgeted in the determination of the patient liability for nursing facility care.

In compliance with 42 CFR 435.725, the Department of Health and Hospitals, Bureau of Health Services Financing currently allows deductions for incurred medical expenses in the determination of the patient liability to the nursing facility. The department has now determined that it is necessary to repeal the May 20, 2003 Rule governing incurred medical expense deductions. This proposed Rule will also revise these provisions in order to impose reasonable limits on incurred medical expense deductions, and repromulgate the provisions in a codified format for inclusion in the *Louisiana Administrative Code*.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 9. Long-Term Care Eligibility

Chapter 161. General Provisions

§16105. Incurred Medical Expense Deductions

A. Allowable Deductions. The following criteria shall apply to all incurred medical expense deductions.

1. The deductions must be for an expense incurred by a nursing facility resident who is eligible for Medicaid vendor payment to the nursing facility.

2. Each deduction must be for a service or an item prescribed by a medical professional (e.g., a physician, a dentist, an optometrist, etc.) as medically necessary, and approved by the attending physician to be included as part of the facility's plan of care for the resident.

B. Non-Allowable Deductions. Deductions will not be allowed for the following incurred medical expenses:

1. expenses payable under Medicaid, except when documentation is presented to verify the expense was denied by the Medicaid program due to service limitations;

2. expenses for services, equipment or supplies which are not medically necessary;

3. expenses for services, equipment or supplies provided as part of the nursing facility reimbursement rate; or

4. monthly fees for pre-paid medical or dental service plans including but not limited to those referred to as "concierge plans."

C. Reasonable Limits. The following reasonable limits apply to incurred medical and remedial expense deductions.

1. The deduction shall be made at the lessor of:

a. 80 percent of the provider's billed charges;

b. the Medicaid fee schedule; or

c. 80 percent of the Louisiana region 99 par Medicare fee schedule.

2. Deductions for medical and remedial care expenses incurred as a result of the imposition of a transfer of assets penalty period is limited to zero.

D. Incurred medical expense deduction amounts will be evaluated annually for consideration of increases in the cost of medical or remedial services and supplies.

E. Nursing facilities shall not enter into profit sharing agreements with other providers for any services, supplies or equipment provided for under the incurred medical expense deductions.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

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.

Poverty Impact Statement

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.

Provider Impact Statement

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.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, May 26, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Medicaid Eligibility
Incurred Medical Expense Deductions**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic cost of \$270 for FY 15-16, and savings of \$210,156 for FY 16-17 and \$228,713 for FY 17-18. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 62.45 percent in FY 17-18.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by \$270 for FY 15-16 and decrease collections by approximately \$346,697 for FY 16-17 and \$380,376 for FY 17-18. It is anticipated that \$270 will be expended in FY 15-16 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 62.45 percent in FY 17-18.

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

This proposed Rule amends the provisions governing Medicaid financial eligibility in order to incorporate reasonable limits on incurred medical expense deductions in long-term care financial eligibility determinations, and to promulgate these provisions in a codified format for inclusion in the Louisiana Administrative Code. It is anticipated that implementation of this proposed rule will reduce programmatic expenditures in the Medicaid program by approximately \$556,853 for FY 16-17 and \$609,089 for FY 17-18.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.

Jen Steele
Interim Medicaid Director
1604#073

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Medical Transportation Program
Non-Emergency Medical Transportation
(LAC 50:XXVII.Chapter 5)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to repeal and replace the provisions of the October 20, 1994 Rule governing non-emergency medical transportation, and amend LAC 50:XXVII.Chapter 5 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, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing non-emergency medical transportation (NEMT) (*Louisiana Register*, Volume 20, Number 10). The department promulgated an Emergency Rule which repealed the October 20, 1994 Rule in order to revise the provisions governing NEMT services, and to ensure that these provisions are appropriately promulgated in a codified format for inclusion in the *Louisiana Administrative Code*. This Emergency Rule also amended the provisions governing the reimbursement methodology for NEMT services to replace the monthly payment of capitated rates with a monthly per trip payment methodology (*Louisiana Register*, Volume 40, Number 10). The department promulgated an Emergency Rule which amended the October 1, 2014 Emergency Rule in order to further clarify these provisions to bring the language of this Rule into compliance with the approved Medicaid State Plan, and to incorporate provisions governing appeals rights for denials and partial denials of NEMT services (*Louisiana Register*, Volume 41, Number 5). This proposed Rule is being promulgated to continue the provisions of the May 20, 2015 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXVII. Medical Transportation Program

Chapter 5. Non-Emergency Medical Transportation

Subchapter A. General Provisions

§501. Introduction

A. Non-emergency medical transportation (NEMT) is non-emergency transportation to and from the providers of routine Medicaid covered services for Medicaid recipients. NEMT is intended to provide transportation only after all reasonable means of free transportation have been explored and found to be unavailable.

B. Medicaid covered transportation is available to Medicaid recipients when:

1. the individual is enrolled in either a full-coverage Medicaid benefit program or a limited-coverage Medicaid benefit program that explicitly includes transportation services; and

2. the recipient or their representative has stated that they have no other means of transportation.

C. The requested destination must be to a medical or behavioral health service provider currently enrolled in the Medicaid 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 42:

§503. Prior Authorization

A. NEMT services require prior authorization. The department or its designee will authorize transportation after verifying the recipient's Medicaid eligibility and validity of medical or behavioral health appointment(s).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§505. Requirements for Coverage

A. When transportation is not available through family and friends, payment shall be authorized for the least costly means of transportation available. The least costly means of

transportation shall be determined by the department and shall be determined according to the following hierarchy:

1. city or parish public transportation;
2. family and friends who meet the state license and insurance requirements and who are willing to:
 - a. enroll in the Medicaid Program; and
 - b. be paid a published rate for providing non-emergency transportation;
3. intrastate public conveyance (such as bus, train or plane);
4. nonprofit agencies and organizations that provide a transportation service and who are enrolled in the Medicaid Program; and
5. for profit providers enrolled in the Medicaid Program.

B. Recipients shall be allowed a choice of providers when the costs of two or more providers are equal.

C. Recipients are encouraged to utilize medical or behavioral health providers of their choice in the community in which they reside when the recipient is also in need of Medicaid reimbursed transportation services. The fact that the department will still pay for the actual medical or behavioral health service received outside the community in which the recipient resides does not obligate the department to reimburse for transportation to accommodate such a choice.

D. When the recipient chooses to utilize a medical or behavioral health provider outside of the community due to preference and/or history, payment may be authorized only for the cost of transportation to the nearest available provider.

E. The recipient may be responsible for securing any agreements with family and friends, nonprofit or profit providers to make the longer trip for the payment authorized. If the recipient needs help with making such arrangements, the department will help but the help given will imply no obligation to provide a greater reimbursement.

F. When specialty treatment required by the recipient necessitates travel over extended distances, authorization for payment for intrastate transportation shall be determined according to the following criteria.

1. Intrastate transportation reimbursement shall be authorized when medical or behavioral health services are not available to the recipient in his/her community.

2. Payment shall be authorized when free transportation is not available.

3. The department shall still authorize payment only for the most economical means of transportation. This may be through negotiating payment for transportation with family and or friends or through accessing the public conveyance systems such as bus, train or plane.

4. The determination as to use of public conveyance shall be based on least cost, medical or behavioral health condition of the recipient to be transported, and availability of public conveyance.

G. When it has been verified that public conveyance is unavailable or inappropriate for intrastate transportation the recipient shall solicit transportation from family and friends. The department will authorize payment to assist the family in accessing the needed medical services.

1. Payment will be based on distance to be traveled to the nearest available similar or appropriate medical or

behavioral health services, parking and tolls. In determining the amount of payment the cost of the least costly public conveyance shall be used as the base cost to be paid to the family. Payment shall not be available for room and board or meals.

H. When no other means of transportation is available through family and friends or public conveyance, the department will solicit intrastate transportation through a nonprofit provider.

1. The nonprofit provider will be paid a fee based on the current fee schedule.

2. If the nonprofit provider cannot accept the trip then the department will reimburse for-profit providers based on the current fee schedule.

- I. The department will not authorize "same day" trips except in the instance of need for immediate medical care due to injury or illness. Same day trips will not be authorized for scheduled appointments for predictable or routine medical or behavioral health care. Recipients will be asked to reschedule the appointment and make the subsequent request for transportation timely.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

Subchapter B. Recipient Participation

§521. General Provisions

A. Recipients shall participate in securing transportation at a low cost and shall agree to use public transportation or solicit transportation from family and friends as an alternative to more costly means of transport.

B. When the recipient alleges that public conveyance cannot be used due to medical reasons, then verification shall be provided by giving the department a written statement from a doctor that includes the specific reason(s) that the use of public conveyance is contraindicated by the medical or behavioral health condition of the recipient. In no case can preference of the recipient be the sole determining factor in excluding use of public conveyance.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§523. Recipient Appeals

A. Recipients shall have a right to request a fair hearing for the denial of NEMT services in full or in part. This includes requests for a fair hearing for denial of meals and lodging expenses associated with authorized trips.

B. Recipients shall be provided written notice of the service denial (including denials for meals and/or lodging expenses) and given the opportunity to request a fair hearing to appeal the department's decision.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

Subchapter C. Provider Responsibilities

§541. Provider Enrollment

A. All transportation providers must comply with the published rules and regulations governing the Medicaid Transportation Program, all state laws, and the regulations of any other governing state agency or commission or local

entity to which they are subject as a condition of enrollment and continued participation in the Medicaid Program.

B. Non-emergency medical transportation profit providers shall have a minimum liability insurance coverage of \$100,000 per person and \$300,000 per accident or a \$300,000 combined service limits policy.

1. The liability policy shall cover any and all:

- a. autos;
- b. hired autos; and
- c. non-owned autos.

2. Premiums shall be prepaid for a period of six months. Proof of prepaid insurance must be a true and correct copy of the policy issued by the home office of the insurance company. Statements from the agent writing the policy will not be acceptable. Proof must include the dates of coverage and a 30-day cancellation notification clause. Proof of renewal must be received by the department no later than 48 hours prior to the end date of coverage. The policy must provide that the 30-day cancellation notification be issued to the Bureau of Health Services Financing.

3. Upon notice of cancellation or expiration of the coverage, the department will immediately cancel the provider agreement for participation. The ending date of participation shall be the ending date of insurance coverage. Retroactive coverage statements will not be accepted. Providers who lose the right to participate due to lack of prepaid insurance may re-enroll in the transportation program and will be subject to all applicable enrollment procedures, policies, and fees for new providers.

C. As a condition of reimbursement for transporting Medicaid recipients to medical or behavioral health services, family and friends must maintain the state minimum automobile liability insurance coverage, a current state inspection sticker, and a current valid driver's license. No special inspection by the department will be conducted. Proof of compliance with the three listed requirements for this class of provider must be submitted when enrollment in the department is sought. Proof shall be the sworn and notarized statement of the individual enrolling for payment, certifying that all three requirements are met. Family and friends shall be enrolled and shall be allowed to transport up to three specific Medicaid recipients or all members of one Medicaid assistance unit. The recipients to be transported by each such provider will be noted in the computer files of the department. Individuals transporting more than three Medicaid recipients shall be considered profit providers and shall be enrolled as such.

D. As a condition of participation for out-of-state transport, providers of transportation to out-of-state medical or behavioral health services must be in compliance with all applicable federal intrastate commerce laws regarding such transportation, including but not limited to, the \$1,000,000 insurance requirement. Proof of compliance with all interstate commerce laws must be submitted when enrollment in the Medicaid Program is sought or prior to providing any out-of-state Medicaid transportation.

E. A provider must agree to cover the entire parish or parishes for which he provides non-emergency medical transportation 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 42:

§543. Trip Coordination

A. Dispatch personnel will coordinate to the extent possible, trips for family members so that all recipients in a family are transported as a unit at one time to the same or close proximity providers.

B. Providers must submit a signed affidavit with claims certifying that a true and correct bill is being submitted.

C. If the provider has declined to accept a trip on a particular day the dispatch personnel will not assign additional trips to that provider for that same day.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§545. Provider Suspension and Termination

A. Providers are subject to suspension from the NEMT Program upon department documentation of inappropriate billing practices or other practices that egregiously violate Medicaid Program policy.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§547. Audits

A. The department shall conduct regular audits of service authorization, reimbursement, service delivery and documentation in order to ensure compliance with published rules and regulations.

B. Lack of compliance on the part of transportation providers shall be addressed as described in the provider policy manual.

C. Lack of compliance on the part of department contractors shall be met with corrective action as described in contract documents.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

Subchapter D. Reimbursement

§565. General Provisions

A. Reimbursement for NEMT services shall be based upon the current fee schedule. An additional per-mile rate may be included when the department determines that a provider requires compensation for travelling far outside of their service areas. This additional payment shall be made when there are no providers in the recipient's service area.

B. Reimbursement for NEMT to regular, predictable and continuing medical services, such as hemodialysis, chemotherapy or rehabilitation therapy, as determined by the department, shall be based on a capitated rate paid by individual trip.

C. Reimbursement will not be made for any additional person(s) who must accompany the recipient to the medical provider.

D. An individual provider will be reimbursed for a trip to the nearest facility that will meet the recipient's medical or behavioral health needs. However, the individual provider may transport the recipient to a more distant facility if the individual provider will accept reimbursement from the department to the nearest facility and assumes responsibility for additional expenses incurred.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§573. Non-Emergency, Non-Ambulance Transportation

A. - F.5. ...

G. Effective for dates of service on or after October 1, 2014, the monthly payment of capitated rates shall be replaced with a per trip payment methodology.

1. Payments previously made using the monthly capitated rate shall be made by dividing the monthly rate by the number of authorized trips within a given month. Each trip will then be reimbursed 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, Office of the Secretary, Bureau of Health Services Financing, LR 33:462 (March 2007), LR 34:878 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2564 (November 2010), LR 37:3030 (October 2011), amended LR 38:3214 (December 2012), LR 42:

Family Impact Statement

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.

Poverty Impact Statement

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.

Provider Impact Statement

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.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, May 26, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Medical Transportation Program Non-Emergency Medical Transportation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 15-16. It is anticipated that \$1,728 (\$864 SGF and \$864 FED) will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed Rule will not affect revenue collections other than the federal share of the promulgation costs for FY 15-16. It is anticipated that \$864 will be collected in FY 15-16 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This proposed Rule continues the provisions of the October 1, 2014 and the May 20, 2015 Emergency Rules which repealed the October 20, 1994 Rule governing non-emergency medical transportation (NEMT) services in order to revise the provisions governing NEMT services, amend the provisions governing the reimbursement methodology for NEMT services to replace the monthly payment of capitated rates with a monthly per trip payment methodology, incorporate provisions governing appeals rights for denials and partial denials of NEMT services and to ensure that these provisions are appropriately promulgated in a codified format for inclusion in the Louisiana Administrative Code. The changes to the payment methodology did not impact the overall payments made to NEMT providers, only the methodology used to establish the rate structure. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to non-emergency medical transportation services providers for FY 15-16, FY 16-17 and FY 17-18.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

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