

**NOTICE OF INTENT**

**Department of Health  
Bureau of Health Services Financing**

**Pediatric Day Health Care Program  
(LAC 50:XV.27501, 27503, 27901 and 28101)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XV.27501, §27503, §§27901 and 28101 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 pediatric day health care (PDHC) services in order to revise the recipient criteria to better align the program's operational procedures with the approved Medicaid State Plan provisions governing these services (*Louisiana Register*, Volume 41, Number 1).

The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing PDHC services in order to clarify these provisions and revise the recipient criteria and reimbursement methodology (*Louisiana Register*, Volume 42, Number 9). This proposed Rule is being promulgated to continue the provisions of the September 1, 2016 Emergency Rule.

**PUBLIC HEALTH-MEDICAL ASSISTANCE**  
**Part XV. Services for Special Populations**  
**Subpart 19. Pediatric Day Health Care Program**

**Chapter 275. General Provisions**

**§27501. Program Description and Purpose**

A. Pediatric Day Health Care (PDHC) Services

1. An array of services that are designed to meet the medical, social and developmental needs of children up to the age of 21 who have a complex medical condition which requires skilled nursing care and therapeutic interventions on an ongoing basis in order to:

- a. preserve and maintain health status;
- b. prevent death;
- c. treat/cure disease;
- d. ameliorate disabilities or other adverse

health conditions; and/or

- e. prolong life.

2. PDHC services offer a community-based alternative to traditional long term care services or extended nursing services for children with medically complex conditions.

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 36:1557 (July 2010), amended by the Department of Health, Bureau of

Health Services Financing, LR 43:

**§27503. Recipient Criteria**

A. In order to qualify for PDHC services, a Medicaid recipient must meet the following criteria. The recipient must:

1. ...

2. have a medically complex condition which involves one or more physiological or organ systems and requires skilled nursing and therapeutic interventions performed by a knowledgeable and experienced licensed professional registered nurse (RN) or licensed practical nurse (LPN) on an ongoing basis in order to:

a. preserve and maintain health status;

b. prevent death;

c. treat/cure disease;

d. ameliorate disabilities or other adverse health conditions; and/or

e. prolong life;

3. have a signed physician's order and plan of care, not to exceed 90 days, for pediatric day health care by the recipient's physician specifying the frequency and duration of services; and

A.3.a. - A.3.e. Repealed.

4. be stable for outpatient medical services in a home or community-based setting.

A.4.a. - A.6. Repealed.

B. ...

C. Re-evaluation of PDHC services must be performed, at a minimum, every 90 days. This evaluation must include a review of the recipient's current medical plan of care and provider agency documented current assessment and progress toward goals.

D. A face-to-face evaluation shall be held every 90 days by the child's prescribing physician. Services shall be revised during evaluation periods to reflect accurate and appropriate provision of services for current medical status.

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 36:1557 (July 2010), amended LR 41:137 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

## **Chapter 279. Provider Participation**

### **§27901. General Provisions**

A. ...

B. A parent, legal guardian or legally responsible person providing care to a medically complex child in a home or any other extended care or long-term care facility, is not considered to be a PDHC facility and shall not be enrolled in the Medicaid Program as a PDHC services provider.

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 36:1558 (July 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**Chapter 281. Reimbursement Methodology**

**§28101. General Provisions**

A. ...

1. A full day of service is more than six hours, not to exceed a maximum of 12 hours per day.

2. A partial day of service is six hours or less per day.

B. - 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 36:1558 (July 2010), amended LR 39:1286 (May 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

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 negative impact on family functioning, stability and autonomy as described in R.S. 49:972 as it may reduce access to PDHC services if provider participation declines as a result of the changes to the reimbursement methodology.

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 negative impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as families may incur increased travel costs to access PDHC services due to a potential reduction in provider participation as a result of the changes to the reimbursement methodology.

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 changes in the reimbursements for the service. 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 change in reimbursements adversely impacts the provider's financial standing.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, November 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES

Person

Preparing

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Return P.O. Box 91030

Address: Baton Rouge, LA

Rule Title: Pediatric Day Health Care Program

Date Rule Takes Effect: September 1, 2016

SUMMARY

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. The following summary statements, based on the attached worksheets, will be published in the Louisiana Register with the proposed agency rule.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)

*It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic savings of \$215,783 for FY 16-17, \$295,367 for FY 17-18 and \$304,228 for FY 18-19. It is anticipated that \$756 (\$378 SGF and \$378 FED) will be expended in FY 16-17 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)

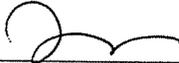
*It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$356,225 for FY 16-17, \$491,230 for FY 17-18 and \$505,966 for FY 18-19. It is anticipated that \$378 will be expended in FY 16-17 for the federal administrative expenses for promulgation 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 NON-GOVERNMENTAL GROUPS (Summary)

*This proposed rule continues the provisions of the September 1, 2016 emergency rule which amended the provisions governing Pediatric Day Health Care (PDHC) services in order to clarify these provisions and revise the recipient criteria and reimbursement methodology. It is anticipated that implementation of this proposed rule will reduce programmatic expenditures for PDHC services by approximately \$572,764 for FY 16-17, \$786,597 for FY 17-18 and \$810,194 for FY 18-19.*

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. However, the change in the reimbursement methodology may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.*

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

*Evan Brassel, Staff Director*  
\_\_\_\_\_  
Legislative Fiscal Officer  
or Designee

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

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

*Shashier Modi*  
\_\_\_\_\_  
DHH/BHSF Budget Head

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

FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberations on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

*This proposed rule continues the provisions of the September 1, 2016 emergency rule which amended the provisions governing Pediatric Day Health Care (PDHC) services in order to clarify these provisions and revise the recipient criteria and reimbursement methodology.*

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

*The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing pediatric day health care (PDHC) services in order to revise the recipient criteria to better align the program's operational procedures with the approved Medicaid State Plan provisions governing these services (Louisiana Register, Volume 41, Number 1).*

*The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing PDHC services in order to clarify these provisions and revise the recipient criteria and reimbursement methodology (Louisiana Register, Volume 42, Number 9). This proposed Rule is being promulgated to continue the provisions of the September 1, 2016 Emergency Rule.*

- C. Compliance with Act 11 of the 1986 First Extraordinary Session.

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

*This proposed rule will result in a reduction in program expenditures for pediatric day healthcare services by approximately \$572,008 for FY 16-17, \$786,597 for FY 17-18 and \$810,194 for FY 18-19. In FY 16-17, \$756 is included for the state's administrative expense for promulgation of this proposed rule and the final rule.*

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) \_\_\_\_\_ If yes, attach documentation.

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

FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET

I. A. COST OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase or (decrease) in cost to implement the proposed action?

COST	FY 16-17	FY 17-18	FY 18-19
PERSONAL SERVICES			
OPERATING EXPENSES	\$756	\$0	\$0
PROFESSIONAL SERVICES			
OTHER CHARGES	(\$572,764)	(\$786,597)	(\$810,194)
REPAIR & CONSTR.			
POSITIONS (#)			
<b>TOTAL</b>	<b>(\$572,008)</b>	<b>(\$786,597)</b>	<b>(\$810,194)</b>

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

*The expenses reflected above are the estimated decreases in program expenditures for PDHC services. In FY 16-17, \$756 is included for the state's administrative expense for promulgation of this proposed rule and the final rule.*

3. Sources of funding for implementing the proposed rule or rule change.

Source	FY 16-17	FY 17-18	FY 18-19
STATE GENERAL FUND	(\$215,783)	(\$295,367)	(\$304,228)
SELF-GENERATED			
FEDERAL FUND	(\$356,225)	(\$491,230)	(\$505,966)
OTHER (Specify)			
<b>Total</b>	<b>(\$572,008)</b>	<b>(\$786,597)</b>	<b>(\$810,194)</b>

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

*Yes, sufficient funds are available to implement this rule.*

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THIS PROPOSED ACTION.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustment in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

*This proposed rule has no known impact on local governmental units.*

FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET

2. Indicate the sources of funding of the local governmental unit that will be affected by these costs or savings.

*There is no known impact on the sources of local governmental unit funding.*

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

- A. What increase or (decrease) in revenues can be expected from the proposed action?

REVENUE INCREASE/DECREASE	FY 16-17	FY 17-18	FY 18-19
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
RESTRICTED FUNDS*			
FEDERAL FUNDS	(\$356,225)	(\$491,230)	(\$505,966)
LOCAL FUNDS			
<b>Total</b>	<b>(\$356,225)</b>	<b>(\$491,230)</b>	<b>(\$505,966)</b>

*\*Specify the particular fund being impacted*

- B. Provide a narrative explanation of each increase or decrease in revenue shown in "A". Describe all data, assumptions, and methods used in calculating these increases or decreases.

*The amounts reflected above are the estimated reduction in the federal share of program expenditures for PDHC services. In FY 16-17, \$378 is included for the federal expense for promulgation of this proposed rule and the final rule.*

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

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effects on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.)

*This proposed Rule continues the provisions of the September 1, 2016 Emergency Rule which amended the provisions governing Pediatric Day Healthcare services in order to clarify these provisions and revise the recipient criteria and reimbursement methodology.*

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

*It is anticipated that implementation of this proposed rule will reduce programmatic expenditures for PDHC services by approximately \$572,764 for FY 16-17, \$786,597 for FY 17-18 and \$810,194 for FY 18-19.*

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

*It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, the change in the reimbursement methodology may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.*