

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.

Title 50

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 ~~d~~Day ~~h~~Health ~~e~~Care (PDHC) ~~s~~Services ~~are an array of services that are designed to meet the medical, social and developmental needs of medically fragile individuals up to the age of 21 who require continuous nursing services and other therapeutic interventions. PDHC services offer a community based alternative to traditional long term care services or extended nursing services for children with medically complex conditions.~~

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. ~~require ongoing skilled medical care or skilled nursing care~~ 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 medically complex condition(s) which require frequent, specialized therapeutic interventions and close nursing supervision. Interventions are those medically necessary procedures provided to sustain and maintain health and life. Interventions required and performed by individuals other than the recipient's personal care giver would require the skilled care provided by professionals at PDHC centers. Examples of medically necessary interventions include, but are not limited to:~~ 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. suctioning using sterile technique;~~

~~b. provision of care to a ventilator dependent and/or oxygen dependent recipients to maintain patent airway and adequate oxygen saturation, inclusive of physician consultation as needed;~~

~~c. monitoring of blood pressure and/or pulse oximetry level in order to maintain stable health condition and provide medical provisions through physician consultation;~~

~~d. maintenance and interventions for technology dependent recipients who require life-sustaining equipment; or~~

~~c. complex medication regimen involving, and not limited to, frequent change in dose, route, and frequency of multiple medications, to maintain or improve the recipient's health status, prevent serious deterioration of health status and/or prevent medical complications that may jeopardize life, health or development;~~ A.3.a. - A.3.e. Repealed.

4. ~~have a medically fragile condition, defined as a medically complex condition characterized by multiple, significant medical problems that require extended care. Medically fragile individuals are medically complex and potentially dependent upon medical devices, experienced medical supervision, and/or medical interventions to sustain life;~~ be stable for outpatient medical services in a home or community-based setting.

~~a. medically complex may be considered as chronic, debilitating diseases or conditions, involving one or more physiological or organ systems, requiring skilled medical care, professional observation or medical intervention;~~

~~b. examples of medically fragile conditions include, but are not limited to:~~

~~i. severe lung disease requiring oxygen;~~

~~ii. severe lung disease requiring ventilator or tracheotomy care;~~

~~iii. complicated heart disease;~~

~~iv. complicated neuromuscular disease; and~~

~~v. unstable central nervous system~~

~~disease;~~

~~5. have a signed physician's order, not to exceed~~

~~180 days, for pediatric day health care by the recipient's~~

~~physician specifying the frequency and duration of services; and~~

~~6. be stable for outpatient medical services.~~[A.4.a.](#)

~~- A.6. Repealed.~~

B. ...

C. Re-evaluation of PDHC services must be performed, at a minimum, every ~~120~~[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 ~~four months~~[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 ~~fragile~~-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 ~~four~~-six hours, not to exceed a maximum of 12 hours per day.

2. A partial day of service is ~~four~~-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