



State of Louisiana
Louisiana Department of Health
Office of the Secretary

August 5, 2016

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Taylor F. Barras, Speaker of the House
The Honorable Fred H. Mills, Jr., Chairman, Senate Committee on Health and Welfare
The Honorable Frank A. Hoffmann, Chairman, House Committee on Health and Welfare
The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FROM: Rebekah E. Gee MD, MPH
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 Federally Qualified Health Centers - Fluoride Varnish Applications - Delegated Appliers.

The Department published a Notice of Intent on this proposed Rule in the June 20, 2016 issue of the *Louisiana Register* (Volume 42, Number 6). A public hearing was held on July 28, 2016 at which only Louisiana Department of Health staff were present. No oral testimony was given or written comments received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the September 20, 2016 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.

REG/WJR/RKA

Attachments (3)

NOTICE OF INTENT

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

**Federally Qualified Health Centers
Fluoride Varnish Applications
Delegated Appliers
(LAC 50:XI.10301)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XI.10301 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 federally qualified health centers (FQHCs) to adopt provisions for the coverage of fluoride varnish applications (*Louisiana Register*, Volume 39, Number 11).

The department now proposes to amend the provisions governing FQHCs in order to allow certified medical assistants to apply fluoride varnish under the direction of a certified physician, and to establish training requirements for appliers of fluoride varnish.

Title 50

**PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XI. Clinic Services
Subpart 13. Federally-Qualified Health Centers**

Chapter 103. Services

§10301. Scope of Services

[Formerly §10501]

A. - C.1.d. ...

- e. registered nurses;
- f. licensed practical nurses; or
- g. certified medical assistants.

2. All participating staff must review the Smiles for Life training module for fluoride varnish and successfully pass the post assessment. All staff involved in the varnish application must be deemed as competent to perform the service by the FQHC.

a. Physicians shall maintain a copy of the successfully completed post assessment certificate in their files for review, and shall provide the certificate to the department, or its fiscal intermediary, upon request.

b. Approved delegated appliers of fluoride varnish must also complete the training module and their certificates shall be retained on file locally as evidence of training.

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 30:2328 (October 2004), repromulgated LR 30:2487 (November 2004), amended LR 32:1902 (October 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2629 (September 2011), LR 39:3076 (November 2013), LR 42:

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

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule 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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, July 28, 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

John Bel Edwards
GOVERNOR



Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana
Louisiana Department of Health
Office of the Secretary

PUBLIC HEARING CERTIFICATION

July 28, 2016

9:30 a.m.

RE: Federally Qualified Health Centers
Fluoride Varnish Applications
Delegated Appliers
Docket # 07282016-01
Department of Health
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 July 28, 2016 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

07/28/16

Date

DHH/BHSF PUBLIC HEARING

Topic – Federally Qualified Health Centers, Fluoride Varnish Application, Delegated Appliers

Date – July 28, 2016

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornette Scott	628 N. 4 th Street Baton Rouge, LA 70802	225-342-3881	LDH-Medicaid Policy & Compliance
2.			
3.			
4.			
5.			
6.			



State of Louisiana
Louisiana Department of Health
Office of the Secretary

August 5, 2016

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Taylor F. Barras, Speaker of the House
The Honorable Fred H. Mills, Jr., Chairman, Senate Committee on Health and Welfare
The Honorable Frank A. Hoffmann, Chairman, House Committee on Health and Welfare
The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FROM: Rebekah E. Gee MD, MPH
Secretary

Rebekah E. Gee

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 – New Opportunities Waiver – Emergency Opportunities.

The Department published a Notice of Intent on this proposed Rule in the June 20, 2016 issue of the *Louisiana Register* (Volume 42, Number 6). A public hearing was held on July 28, 2016 at which only Louisiana Department of Health staff were present. No oral testimony was given or written comments received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the September 20, 2016 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.

REG/WJR/CEC

Attachments (3)

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing
and
Office for Citizens with Developmental Disabilities**

**Home and Community-Based Services Waivers
New Opportunities Waiver
Emergency Opportunities
(LAC 50:XXI.13709)**

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.13709 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 for Citizens with Developmental Disabilities promulgated an Emergency Rule which amended the provisions governing the allocation of waiver opportunities in the New Opportunities Waiver (NOW) to revise the criteria for emergency waiver services, simplify the allocation process for NOW emergency opportunities, and facilitate faster access to NOW emergency services for qualified individuals (*Louisiana Register*, Volume 41, Number 9).

The department subsequently promulgated an Emergency Rule to rescind the October 1, 2015 Emergency Rule in order to return

to the provisions in place governing the allocation of waiver opportunities for the NOW located in LAC 50:XXI.13709 (*Louisiana Register*, Volume 42, Number 1).

The department has now determined that it is necessary to amend the provisions governing the allocation of waiver opportunities in the NOW to revise the criteria for emergency opportunities, simplify the allocation process for NOW emergency opportunities and facilitate faster access to NOW emergency services for qualified individuals.

Title 50

**PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XXI. Home and Community Based Services Waivers
Subpart 11. New Opportunities Waiver**

Chapter 137. General Provisions

§13709. Emergency Opportunities

A. Requests for emergency waiver services shall be made through the local governing entities (LGEs) responsible for coordination of services for persons with developmental disabilities. When a request for emergency services is received, the LGE shall complete a standardized screening tool that incorporates standardized operational procedures to determine the priority of the individual's urgency of need in a fair and consistent manner.

B. To be considered for emergency waiver supports, the individual must need long-term supports, not temporary or short-term supports.

1. - 5. Repealed.

C. Effective for dates of service on or after September 20, 2016, an individual must meet the required criteria within the OCDD standardized screening tool in order to qualify for emergency waiver services.

1. Documentation that any one of the following criteria within the OCDD standardized screening tool has been met will qualify an individual for an emergency waiver opportunity:

a. the caregiver is no longer able to provide support and the individual's health and/or safety is placed at risk;

b. the individual has no other support available after the death of a caregiver;

c. the caregiver needs immediate assistance to provide support and maintain the individual's current living situation;

d. the individual has been placed in custody and, as a result, requires essential, community-based supports;

e. the individual requires long term care supports to address imminent risk of incarceration;

f. the individual needs immediate supports to stay in his/her own home;

g. intolerable conditions exist within the residence with an immediate need for a new residential option;

h. the individual's eligibility will expire and/or the individual "ages out" of the program or funding source providing essential supports within the next 90 days; and

i. additional supports are needed to ensure health and safety and/or to keep the individual from being placed in an institutional situation.

D. For individuals who meet the criteria for an emergency waiver opportunity, as determined by the OCDD standardized screening tool, the LGE will forward copies of all documentation used for determination of eligibility for NOW emergency services, including the standardized screening tool, to the appropriate DHH emergency review manager at OCDD.

1. OCDD will verify each qualifying applicant's request for services registry (RFSR) date and assign waiver opportunities in order, based on their protected RFSR dates.

2. In instances when there are more requests than available emergency waiver opportunities, qualifying individuals who have the earliest protected request dates on the NOW RFSR will receive their opportunities first.

3. If there are more applicants than available

emergency waiver opportunities, those individuals may reapply when additional emergency waiver opportunities become available.

E. The LGE will keep all of the supporting documentation used to determine whether an applicant has met emergency waiver criteria.

F. Individuals who do not meet the criteria and are denied an emergency waiver opportunity have the right to an administrative appeal.

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 Community Supports and Services, LR 30:1201 (November 2005), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:71 (January 2014), LR 42:

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

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this

proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 as it will allow individuals and families in crisis to obtain faster access to necessary services.

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 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 allowing families to obtain emergency services faster which may reduce their financial burden if they are incurring costs for services initially.

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov.

Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, July 28, 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

John Bel Edwards
GOVERNOR



Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana
Louisiana Department of Health
Office of the Secretary

PUBLIC HEARING CERTIFICATION

July 28, 2016

9:30 a.m.

RE: Home and Community-Based Services Waivers
New Opportunities Waiver
Emergency Opportunities
Docket # 07282016-02
Department of Health
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 July 28, 2016 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

07/28/16

Date

DHH/BHSF PUBLIC HEARING

Topic – Home and Community-Based Services Waiver, New Opportunities Waiver Emergency Opportunities

Date – July 28, 2016

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornette Scott	628 N. 4 th Street Baton Rouge, LA 70802	225-342-3881	LDH-Medicaid Policy & Compliance
2.			
3.			
4.			
5.			
6.			



State of Louisiana
Louisiana Department of Health
Office of the Secretary

August 5, 2016

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Taylor F. Barras, Speaker of the House
The Honorable Fred H. Mills, Jr., Chairman, Senate Committee on Health and Welfare
The Honorable Frank A. Hoffmann, Chairman, House Committee on Health and Welfare
The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FROM: Rebekah E. Gee MD, MPH
Secretary

A handwritten signature in blue ink, appearing to read "Rebekah E. Gee", with a large flourish underneath.

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 Hospice Services.

The Department published a Notice of Intent on this proposed Rule in the June 20, 2016 issue of the *Louisiana Register* (Volume 42, Number 6). A public hearing was held on July 28, 2016 at which only Louisiana Department of Health staff were present. No oral testimony was given or written comments received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the September 20, 2016 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.

REG/WJR/CEC

Attachments (3)

NOTICE OF INTENT

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

**Hospice Services
(LAC 50:XV.4101)**

The Department of Health and Hospitals, Bureau of Health Services Financing, proposes to amend LAC 50:XV.Chapter 41 under 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 hospice services to incorporate language approved in the corresponding State Plan Amendment in order to ensure compliance with federal regulations (*Louisiana Register*, Volume 41, Number 1). The department now proposes to amend the provisions governing hospice services in order to replace the retired local coverage determination (LCD) number with an active LCD number.

Title 50

**PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 3. Hospice**

Chapter 41. Prior Authorization

§4101. Prior Authorization of Hospice Services

A. ...

1. The Medicare criteria found in local coverage determination (LCD) hospice determining terminal status (L34538)

will be used in analyzing information provided by the hospice to determine if the patient meets clinical requirements for this program.

A.2. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1470 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:131 (January 2015), LR 42:

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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, July 28, 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

John Bel Edwards
GOVERNOR



Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana
Louisiana Department of Health
Office of the Secretary

PUBLIC HEARING CERTIFICATION

July 28, 2016

9:30 a.m.

RE: Hospice Services
Docket # 07282016-03
Department of Health
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 July 28, 2016 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

07/28/16

Date

DHH/BHSF PUBLIC HEARING

Topic - Hospice Services

Date - July 28, 2016

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornette Scott	628 N. 4 th Street Baton Rouge, LA 70802	225-342-3881	LDH-Medicaid Policy & Compliance
2. Yolanda Ellis		(225) 342-5042	
3.			
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State of Louisiana
Louisiana Department of Health
Office of the Secretary

August 5, 2016

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Taylor F. Barras, Speaker of the House
The Honorable Fred H. Mills, Jr., Chairman, Senate Committee on Health and Welfare
The Honorable Frank A. Hoffmann, Chairman, House Committee on Health and Welfare
The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FROM: Rebekah E. Gee MD, MPH
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 Managed Care for Physical and Behavioral Health - Non-Emergency Medical Transportation.

The Department published a Notice of Intent on this proposed Rule in the June 20, 2016 issue of the *Louisiana Register* (Volume 42, Number 6). A public hearing was held on July 28, 2016 at which only Louisiana Department of Health staff were present. No oral testimony was given or written comments received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the September 20, 2016 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.

REG/WJR/RKA

Attachments (3)

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Managed Care for Physical and Behavioral Health
Non-Emergency Medical Transportation
(LAC 50:I.3103)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:I.3103 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 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 (*Louisiana Register*, Volume 41, Number 11). The department promulgated an Emergency Rule which amended the provisions governing managed care for physical and basic behavioral health to provide clarification regarding the inclusion of non-emergency medical transportation (NEMT) services (*Louisiana Register*, Volume 42, Number 1). This proposed Rule is being promulgated to continue the provisions of the January 1, 2016 Emergency Rule.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Managed Care for Physical and Behavioral Health

Chapter 31. General Provisions

§3103. Recipient Participation

A. - B. ...

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

B.1.a. - D. ...

E. Mandatory MCO Populations - Specialized Behavioral Health Services and Non-Emergency Ambulance Services Only

1. The following populations are mandatory enrollees in Bayou Health for specialized behavioral health services and non-emergency ambulance services only:

a. - b. ...

F. Mandatory MCO Populations - Specialized Behavioral Health and NEMT Services (Ambulance and Non-Ambulance) Only

F.1. - I. ...

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 40:310 (February 2014), LR 40:1096 (June 2014), LR 40:2258 (November 2014), LR 41:929 (May 2015), LR 41:2363 (November 2015), LR 42:754 (May 2016), LR 42:

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 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 the total direct and indirect cost to the provider to provide the same level of service due to the reduction of NEMT payments. 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 of these payments 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 Thursday, July 28, 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

John Bel Edwards
GOVERNOR



Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana
Louisiana Department of Health
Office of the Secretary

PUBLIC HEARING CERTIFICATION
July 28, 2016
9:30 a.m.

RE: Managed Care for Physical and Behavioral Health
Non-Emergency Medical Transportation
Docket # 07282016-04
Department of Health
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 July 28, 2016 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

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Robert K. Andrepont
Medicaid Policy and Compliance
Section

07/28/16
Date

DHH/BHSF PUBLIC HEARING

Topic – Managed Care for Physical and Behavioral Health Non-Emergency Medical Transportation

Date – July 28, 2016

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornette Scott	628 N. 4 th Street Baton Rouge, LA 70802	225-342-3881	LDH - Medicaid Policy & Compliance
2. Kelley Francis	"	225-342-0008	CBT
3.			
4.			
5.			
6.			



State of Louisiana
Louisiana Department of Health
Office of the Secretary

August 5, 2016

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
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The Honorable Frank A. Hoffmann, Chairman, House Committee on Health and Welfare
The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FROM: Rebekah E. Gee MD, MPH
Secretary

A handwritten signature in blue ink, appearing to read "Rebekah E. Gee", is written over the printed name and title.

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 Nursing Facilities - Reimbursement Methodology.

The Department published a Notice of Intent on this proposed Rule in the June 20, 2016 issue of the *Louisiana Register* (Volume 42, Number 6). A public hearing was held on July 28, 2016 at which only Louisiana Department of Health staff were present. No oral testimony was given or written comments received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the September 20, 2016 issue of the *Louisiana Register*.

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REG/WJR/RKA

Attachments (3)

NOTICE OF INTENT

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

**Nursing Facilities
Reimbursement Methodology
(LAC 50:II.20001)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:II.20001 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 reimbursement to nursing facilities, through vendor payments, for services rendered to Medicaid eligible individuals who reside in nursing facilities.

For state fiscal year (SFY) 2015-16, the department determined it was necessary to promulgate an Emergency Rule to amend the provisions governing the reimbursement methodology for nursing facilities in order to suspend the provisions of LAC 50:II.Chapter 200, and to impose provisions to ensure that the rates in effect do not increase for the SFY 2016 rating period (*Louisiana Register*, Volume 41, Number 7). This proposed Rule is being promulgated in order to continue the provisions of the July 11, 2015 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE
Part II. Nursing Facilities
Subpart 5. Reimbursement

Chapter 200. Reimbursement Methodology

§20001. General Provisions

A. Definitions

Administrative and Operating Cost Component—the portion of the Medicaid daily rate that is attributable to the general administration and operation of a nursing facility.

Assessment Reference Date—the date on the Minimum Data Set (MDS) used to determine the due date and delinquency of assessments. This date is used in the case-mix reimbursement system to determine the last assessment for each resident present in the facility and is included in the quarterly case-mix report.

Base Resident-Weighted Median Costs and Prices—the resident-weighted median costs and prices calculated in accordance with §20005 of this rule during rebase years.

Calendar Quarter—a three-month period beginning January 1, April 1, July 1, or October 1.

Capital Cost Component—the portion of the Medicaid daily rate that is:

- a. attributable to depreciation;
- b. capital related interest;

- c. rent; and/or
- d. lease and amortization expenses.

Care Related Cost Component—the portion of the Medicaid daily rate that is attributable to those costs indirectly related to providing clinical resident care services to Medicaid recipients.

Case Mix—a measure of the intensity of care and services used by similar residents in a facility.

Case-Mix Index (CMI)—a numerical value that describes the resident's relative resource use within the groups under the Resource Utilization Group (RUG-III) classification system, or its successor, prescribed by the department based on the resident's MDS assessments. Two average CMIs will be determined for each facility on a quarterly basis, one using all residents (the facility average CMI) and one using only Medicaid residents (the Medicaid average CMI).

Case-Mix MDS Documentation Review (CMDR) —a review of original legal medical record documentation on a randomly selected MDS assessment sample. The original legal medical record documentation supplied by the nursing facility is to support certain reported values that resulted in a specific RUG classification. The review of the documentation provided by the nursing facility will result in the RUG classification being supported or unsupported.

Cost Neutralization—refers to the process of removing cost variations associated with different levels of resident case mix. Neutralized cost is determined by dividing a facility's per diem direct care costs by the facility cost report period case-mix index.

Delinquent MDS Resident Assessment—an MDS assessment that is more than 121 days old, as measured by the Assessment Reference Date (ARD) field on the MDS.

Direct Care Cost Component—the portion of the Medicaid daily rate that is attributable to:

- a. registered nurse (RN), licensed practical nurse (LPN) and nurse aide salaries and wages;
- b. a proportionate allocation of allowable employee benefits; and
- c. the direct allowable cost of acquiring RN, LPN and nurse aide staff from outside staffing companies.

Facility Cost Report Period Case-Mix Index—the average of quarterly facility-wide average case-mix indices, carried to four decimal places. The quarters used in this average will be the quarters that most closely coincide with the facility's cost reporting period that is used to determine the medians. This average includes any revisions made due to an on-site CMDR.

Example: A January 1, 2011–December 31, 2011 cost report period would use the facility-wide average

case-mix indices calculated for March 31, 2011, June 30, 2011, September 30, 2011 and December 31, 2011.

Facility-Wide Average Case-Mix Index—the simple average, carried to four decimal places, of all resident case-mix indices based on the last day of each calendar quarter. If a facility does not have any residents as of the last day of a calendar quarter or the average resident case-mix indices appear invalid due to temporary closure or other circumstances, as determined by the department, a statewide average case-mix index using occupied and valid statewide facility case-mix indices may be used.

Final Case-Mix Index Report (FCIR) —the final report that reflects the acuity of the residents in the nursing facility on the last day of the calendar quarter, referred to as the point-in-time.

Index Factor—will be based on the *Skilled Nursing Home without Capital Market Basket Index* published by Data Resources Incorporated (DRI-WEFA), or a comparable index if this index ceases to be published.

Minimum Data Set (MDS)—a core set of screening and assessment data, including common definitions and coding categories that form the foundation of the comprehensive assessment for all residents of long-term care facilities certified to participate in the Medicaid Program. The items in

the MDS standardize communication about resident problems, strengths, and conditions within facilities, between facilities, and between facilities and outside agencies. The Louisiana system will employ the current MDS assessment required and approved by the Centers for Medicare and Medicaid Services (CMS).

MDS Supportive Documentation Guidelines—the department's publication of the minimum medical record documentation guidelines for the MDS items associated with the RUG-III or its successor classification system. These guidelines shall be maintained by the department and updated and published as necessary.

Pass-Through Cost Component—includes the cost of property taxes and property insurance. It also includes the provider fee as established by the Department of Health and Hospitals.

Preliminary Case Mix Index Report (PCIR)—the preliminary report that reflects the acuity of the residents in the nursing facility on the last day of the calendar quarter.

Rate Year—a one-year period from July 1 through June 30 of the next calendar year during which a particular set of rates are in effect. It corresponds to a state fiscal year.

Resident-Day-Weighted Median Cost—a numerical value determined by arraying the per diem costs and total actual

resident days of each nursing facility from low to high and identifying the point in the array at which the cumulative total of all resident days first equals or exceeds half the number of the total resident days for all nursing facilities. The per diem cost at this point is the resident-day-weighted median cost.

RUG-III Resident Classification System—the resource utilization group used to classify residents. When a resident classifies into more than one RUG-III, or its successor's group, the RUG-III or its successor's group with the greatest CMI will be utilized to calculate the facility average CMI and Medicaid average CMI.

Summary Review Results Letter—a letter sent to the nursing facility that reports the final results of the case-mix MDS documentation review and concludes the review.

a. The summary review results letter will be sent to the nursing facility within 10 business days after the final exit conference date.

Supervised Automatic Sprinkler System—a system that operates in accordance with the latest adopted edition of the National Fire Protection Association's Life Safety Code. It is referred to hereafter as a fire sprinkler system.

Two-Hour Rated Wall—a wall that meets American Society for Testing and Materials International (ASTM) E119 standards for installation and uses two-hour rated sheetrock.

Unsupported MDS Resident Assessment—an assessment where one or more data items that are used to classify a resident pursuant to the RUG-III, 34-group, or its successor's resident classification system is not supported according to the MDS supporting documentation guidelines and a different RUG-III, or its successor, classification would result; therefore, the MDS assessment would be considered "unsupported."

B. Effective for the rate period of July 1, 2015 through June 30, 2016, the department shall suspend the provisions of LAC 50:II.Chapter 200 governing the reimbursement methodology for nursing facilities and imposes the following provisions governing reimbursements for nursing facility services.

1. During this time period, no inflation factor will be applied to the base resident day weighted medians and prices calculated as of July 1, 2014.

2. All costs and cost components that are required by rule to be trended forward will only be trended forward to the midpoint of the 2015 state fiscal year (December 31, 2014).

3. The base capital per square foot value, land value per square foot, and per licensed bed equipment value utilized in the calculation of the fair rental value (FRV)

component will be set equal to the value of these items as of July 1, 2014.

4. Base capital values for the Bed Buy-Back program (\$20012) purposes will be set equal to the value of these items as of July 1, 2014.

5. Nursing facility providers will not have their weighted age totals for the FRV component calculation purposes increased by one year as of July 1, 2015.

6. As of the July 1, 2016 rate setting, nursing facility provider weighted age totals for the FRV component calculation purposes will be increased by two years to account for the suspended year of aging occurring as of the July 1, 2015 rating period.

7. No other provisions of LAC 50:II.Chapter 200 shall be suspended for this time period.

Base Resident-Repealed.

Calendar Quarter-Repealed.

Capital Cost Component-Repealed.

1. - 4. Repealed.

Care Related Cost Component-Repealed.

Case Mix-Repealed.

Case-Mix Index-Repealed.

Case-Mix MDS Documentation Review (CMDR)-Repealed.

Cost Neutralization-Repealed.

Delinquent MDS Resident Assessment-Repealed.

Direct Care Cost Component-Repealed.

1. - 3. Repealed.

Facility Cost Report Period Case-Mix Index-Repealed.

Example: Repealed.

Facility-Wide Average Case-Mix Index-Repealed.

Final Case-Mix Index Report (FCIR)-Repealed.

Index Factor-Repealed.

Minimum Data Set (MDS)-Repealed.

MDS Supportive Documentation Guidelines-Repealed.

Pass-Through Cost Component-Repealed.

Preliminary Case Mix Index Report (PCIR)-Repealed.

Rate Year-Repealed.

Resident-Day-Weighted Median Cost-Repealed.

RUG-III Resident Classification System-Repealed.

Summary Review Results Letter-Repealed.

1. Repealed.

Supervised Automatic Sprinkler System-Repealed.

Two-Hour Rated Wall-Repealed.

Unsupported MDS Resident Assessment-Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, 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 28:1790 (August 2002), amended LR 28:2537 (December 2002), LR 32:2262 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:825 (March 2012), LR 42:

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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, July 28, 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

John Bel Edwards
GOVERNOR



Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana
Louisiana Department of Health
Office of the Secretary

PUBLIC HEARING CERTIFICATION
July 28, 2016
9:30 a.m.

RE: Nursing Facilities
Reimbursement Methodology
Docket # 07282016-05
Department of Health
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 July 28, 2016 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

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

Robert K. Andrepont
Medicaid Policy and Compliance
Section

07/28/16
Date

DHH/BHSF PUBLIC HEARING

Topic – **Nursing Facilities Reimbursement Methodology**

Date – July 28, 2016

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornette Scott	628 N. 4 th Street Baton Rouge, LA 70802	225-342-3881	LDH - Medicaid Policy & Compliance
2. DENIS S. BEARD	"	225-342-3613	LDH MEDICAID - RATE SETTING + AUDIT
3.			
4.			
5.			
6.			



State of Louisiana
Louisiana Department of Health
Office of the Secretary

August 5, 2016

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Taylor F. Barras, Speaker of the House
The Honorable Fred H. Mills, Jr., Chairman, Senate Committee on Health and Welfare
The Honorable Frank A. Hoffmann, Chairman, House Committee on Health and Welfare
The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FROM: Rebekah E. Gee MD, MPH
Secretary

A handwritten signature in blue ink, appearing to read "Rebekah E. Gee", is written over the printed name and title.

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 Professional Services Program – Fluoride Varnish Applications – Delegated Appliers.

The Department published a Notice of Intent on this proposed Rule in the June 20, 2016 issue of the *Louisiana Register* (Volume 42, Number 6). A public hearing was held on July 28, 2016 at which only Louisiana Department of Health staff were present. No oral testimony was given or written comments received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the September 20, 2016 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.

REG/WJR/CEC

Attachments (3)

NOTICE OF INTENT

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

**Professional Services Program
Fluoride Varnish Applications
Delegated Appliers
(LAC 50:IX.905)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:IX.905 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 Professional Services Program to adopt provisions for the coverage of fluoride varnish applications (*Louisiana Register*, Volume 40, Number 2).

The department now proposes to amend the provisions governing the Professional Services Program in order to allow certified medical assistants to apply fluoride varnish under the direction of a certified physician, and to establish training requirements for appliers of fluoride varnish.

Title 50

**PUBLIC HEALTH-MEDICAL ASSISTANCE
Part IX. Professional Services Program
Subpart 1. General Provisions**

Chapter 9. Fluoride Varnish Application Services

§905. Provider Participation

A. - B.4. ...

5. registered nurses;
6. licensed practical nurses; or
7. certified medical assistants.

C. Professional service providers must review the Smiles for Life training module for fluoride varnish and successfully pass the post assessment.

1. Physicians shall maintain a copy of the successfully completed post assessment certificate in their files for review, and shall provide the certificate to the department, or its fiscal intermediary, upon request.

2. Approved delegated applicators of fluoride varnish must also complete the training module and their certificates shall be retained on file locally as evidence of training.

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 40:315 (February 2014), 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.

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 Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is

responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, July 28, 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

John Bel Edwards
GOVERNOR



Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana
Louisiana Department of Health
Office of the Secretary

PUBLIC HEARING CERTIFICATION
July 28, 2016
9:30 a.m.

RE: Professional Services Program
Fluoride Varnish Applications
Delegated Appliers
Docket # 07282016-06
Department of Health
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 July 28, 2016 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.


Robert K. Andrepont
Medicaid Policy and Compliance
Section

07/28/16
Date

DHH/BHSF PUBLIC HEARING

Topic – Professional Services Program Fluoride Varnish Application; Delegated Appliers

Date – July 28, 2016

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornette Scott	628 N. 4 th Street Baton Rouge, LA 70802	225-342-3881	LDH - Medicaid Policy & Compliance
2.			
3.			
4.			
5.			
6.			



State of Louisiana
Louisiana Department of Health
Office of the Secretary

August 5, 2016

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Taylor F. Barras, Speaker of the House
The Honorable Fred H. Mills, Jr., Chairman, Senate Committee on Health and Welfare
The Honorable Frank A. Hoffmann, Chairman, House Committee on Health and Welfare
The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FROM: Rebekah E. Gee MD, MPH
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 Rural Health Clinics - Fluoride Varnish Applications - Delegated Appliers.

The Department published a Notice of Intent on this proposed Rule in the June 20, 2016 issue of the *Louisiana Register* (Volume 42, Number 6). A public hearing was held on July 28, 2016 at which only Louisiana Department of Health staff were present. No oral testimony was given or written comments received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the September 20, 2016 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.

REG/WJR/RKA

Attachments (3)

NOTICE OF INTENT

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

**Rural Health Clinics
Fluoride Varnish Applications
Delegated Appliers
(LAC 50:XI.16301)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XI.16301 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 rural health clinics (RHCs) to adopt provisions for the coverage of fluoride varnish applications (*Louisiana Register*, Volume 40, Number 1).

The department now proposes to amend the provisions governing RHCs in order to allow certified medical assistants to apply fluoride varnish under the direction of a certified physician, and to establish training requirements for appliers of fluoride varnish.

**Title 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XI. Clinic Services
Subpart 15. Rural Health Clinics**

Chapter 163. Services

§16301. Scope of Services

[Formerly §16501]

A. - C.1.d

- e. registered nurses;
- f. licensed practical nurses; or
- g. certified medical assistants.

2. All participating staff must review the Smiles for Life training module for fluoride varnish and successfully pass the post assessment. All staff involved in the varnish application must be deemed as competent to perform the service by the RHC.

a. Physicians shall maintain a copy of the successfully completed post assessment certificate in their files for review, and shall provide the certificate to the department, or its fiscal intermediary, upon request.

b. Approved delegated appliers of fluoride varnish must also complete the training module and their certificates shall be retained on file locally as evidence of training.

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 32:1905 (October 2006), repromulgated LR 32:2267 (December 2006), amended by the Department of Health and

Hospitals, Bureau of Health Services Financing, LR 37:2631
(September 2011), LR 40:83 (January 2014), LR 42:

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

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule 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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, July 28, 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

John Bel Edwards
GOVERNOR



Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana
Louisiana Department of Health
Office of the Secretary

PUBLIC HEARING CERTIFICATION
July 28, 2016
9:30 a.m.

RE: Rural Health Clinics
Fluoride Varnish Applications
Delegated Appliers
Docket # 07282016-07
Department of Health
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 July 28, 2016 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".

Robert K. Andrepont
Medicaid Policy and Compliance
Section

07/28/16
Date

DHH/BHSF PUBLIC HEARING

Topic – Rural Health Clinics, Fluoride Varnish Applications, Delegated Appliers

Date – July 28, 2016

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornette Scott	628 N. 4th Street Baton Rouge, LA 70802	225-342-3881	LDH- Medicaid Policy & Compliance
2.			
3.			
4.			
5.			
6.			