

POTPOURRI

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

**Public Hearing-Substantive Changes to Proposed Rule
Home and Community-Based Services Waivers
Children's Choice Waiver
Direct Service Worker Wages and Bonus Payments
(LAC 50:XXI.12101)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities published a Notice of Intent in the September 20, 2022 edition of the *Louisiana Register* (LR 48:2418-2421) to amend LAC 50:XXI.12101 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Notice of Intent proposed to amend provisions governing reimbursement in the Children's Choice Waiver in order to establish workforce bonus payments for direct service workers and support coordination providers along with audit procedures and sanctions. Upon further discussion with various stakeholders, the department published a Potpourri announcing substantive revisions to the provisions of the September 20, 2022 Notice of Intent (*Louisiana Register*, Volume 49, Number 1). The department subsequently decided not to proceed with the

substantive revisions proposed in the January 20, 2023
Potpourri.

This Potpourri announces substantive changes to the
provisions proposed in the September 20, 2022 Notice of Intent.

Taken together, all of these revisions to the September 20,
2022 Notice of Intent will closely align the proposed Rule with
the department's original intent and address the concerns
brought forth during subsequent discussions with stakeholders
relative to the Notice of Intent as originally published.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XXI. Home and Community-Based Services Waivers

Subpart 9. Children's Choice Waiver

Chapter 121. Reimbursement Methodology

§12101. Unit of Reimbursement

A. ...

1. Establishment of Support Coordination Workforce
Bonus Payments

a. Support coordination providers who provided
services from April 1, 2021 to October 31, 2022 shall receive
bonus payments of \$300 per month for each support coordination
worker that worked with participants for those months..

b. The support coordination worker who provided
services to participants from April 1, 2021 to October 31, 2022
must receive at least \$250 of this \$300 bonus payment paid to

the provider. This bonus payment is effective for all eligible support coordination workers of any working status, whether full-time or part-time.

c. - d. Repealed.

2. Audit Procedures for Support Coordination
Workforce Bonus Payments

a. - e.ii. ...

3. Sanctions for Support Coordination Workforce
Bonus Payments

a. The support coordination provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend upon the following factors:

i. failure to pay support coordination workers the \$250 monthly workforce bonus payments;

ii. the number of employees identified as having been paid less than the \$250 monthly workforce bonus payments;

iii. the persistent failure to pay the \$250 monthly workforce bonus payments;

A.3.a.iv. - B.3. ...

4. Direct Service Worker Wages and Workforce Bonus
Payments

a. - a.iv. ...

b. Establishment of Direct Service Worker
Workforce Bonus Payments.

i. Providers who provided services from
April 1, 2021 to October 31, 2022 shall receive bonus payments
of \$300 per month for each direct service worker that worked
with participants for those months.

ii. Direct service workers who provided
services from April 1, 2021 to October 31, 2022 that worked with
participants must receive at least \$250 of this \$300 bonus
payment paid to providers. This bonus payment is effective for
all eligible direct service workers of any working status,
whether full-time or part-time.

iii. Bonus payments will end October 31,
2022.

iv. ...

v. - v.(b). Repealed.

c. Audit Procedures for Direct Service Worker
Wage Floor and Workforce Bonus Payments

i. ...

(a). - (d). Repealed.

ii. - v.(b). ...

d. Sanctions for Direct Service Worker Wage
Floor and Workforce Bonus Payments

i. The provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend upon the following factors:

(a). Direct Service Worker Wage Floor;

(i). the failure to pay I/DD HCBS direct service workers the wage floor minimum of \$9 per hour;

(ii). the number of I/DD HCBS direct service workers identified as having been paid less than the wage floor minimum of \$9 per hour; or

(iii). the persistent failure to pay I/DD HCBS direct service workers the wage floor minimum of \$9 per hour;

(b). Direct Service Worker Workforce Bonus Payments;

(i). the failure to pay eligible I/DD HCBS direct service workers the \$250 monthly workforce bonus payments;

(ii). the number of eligible I/DD HCBS direct service workers who are identified as having been not been paid the \$250 monthly workforce bonus payments; or

(iii). the persistent failure to pay eligible I/DD HCBS direct service workers the monthly \$250 monthly workforce bonus payments; or

(c). failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this Rule.

(d). Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1987 (September 2002), LR 33:1872 (September 2007), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:250 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:324 (February 2010), LR 36:2280 (October 2010), LR 37:2157 (July 2011), LR 39:2504 (September 2013), LR 40:68 (January 2014), LR 41:128 (January 2015), LR 42:896 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:40 (January 2022), LR 48:1544 (June 2022), LR 49:

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding these substantive changes to

the proposed Rule. A public hearing on the substantive changes to the proposed Rule is scheduled for Thursday, April 27, 2023 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., May 1, 2023.

Dr. Courtney N. Phillips

Secretary