



State of Louisiana
Department of Health and Hospitals
Office of the Secretary

MEMORANDUM

TO: Madeline McAndrew, Bayou Health Director

FROM: Stephen Russo, Executive Counsel

DATE: October 30, 2012

RE: Taxation of Pharmaceutical Benefits

At your request, the Department of Health and Hospitals' Bureau of Legal Services has conducted a review of current law regarding the taxation of Medicaid pharmaceutical benefits once those services have been integrated into the Medicaid Bayou Health Plans. Louisiana R.S. 47:305 (exemptions from sales tax) provides as follows in paragraph (D)(5)(b):

“[S]ales taxes authorized and imposed by any school board, municipality, or other local taxing authority shall not apply to the sale of prescription drugs under the pharmaceutical vendor program for Title XIX of the Social Security Act as administered by the Department of Health and Hospitals of the state of Louisiana. Beginning January 1, 1999, such taxes shall not apply to the sale of such drugs under Title XXI of the Social Security Act as administered by such department.”

In the Department's legal opinion, the sale of prescription drugs in a Bayou Health plan continues to fall “under the pharmaceutical vendor program for Title XIX”. While the Health Plans have a contractual agreement with the department to manage benefits for their enrolled Medicaid recipients, DHH does not relinquish our responsibility over the Medicaid program. It is our legal opinion that these prescription drugs are not sales-taxable at the local level.