

NOTICE OF INTENT

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

**Psychiatric Residential Treatment Facilities
(LAC 50:XXXIII Chapters 101-107)**

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.Chapters 101-107 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 inpatient behavioral health services to children with emotional/behavioral disorders in psychiatric residential treatment facilities (PRTFs) under the coordinated behavioral health services system.

The department now proposes to amend the provisions governing PRTFs to: 1) allow an Office of Behavioral Health appointed designee to certify providers; 2) revise the terminology to be consistent with current program operations; and 3) revise the reimbursement methodology to remove the provisions governing interim payments, and to establish capitation payments to managed care organizations for children's

services other than CSoC. For children/youth enrolled in CSoC, the non-risk payments shall be continued and payments made to a CSoC contractor.

TITLE 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XXXIII. Behavioral Health Services
Subpart 11. Psychiatric Residential Treatment Facility Services
Chapter 101. General Provisions

§10101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid State Plan for behavioral health services rendered to children and youth in an inpatient psychiatric residential treatment facility (PRTF). These services shall be administered under the authority of the Department of Health and Hospitals, ~~Office of Behavioral Health~~ in collaboration with ~~a Statewide Management Organization (SMO)~~ managed care organizations and the coordinated system of care (CSoC) contractor, which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery.

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 38:369

(February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§10103. Recipient Qualifications

A. Individuals under the age of 21 with an identified mental health or substance ~~abuse~~use diagnosis, who meet Medicaid eligibility and clinical criteria, shall qualify to receive inpatient psychiatric residential treatment facility services.

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 38:369 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 103. Services

§10301. General Provisions

A. - C.1. ...

D. Children who are in need of behavioral health services shall be served within the context of the family and not as an isolated unit. ~~Services shall be appropriate for:~~

1. ~~age;~~ Services shall be:

a. delivered in a culturally and linguistically competent manner; and

b. respectful of the individual receiving services.

2. ~~development;~~ Services shall be appropriate to children and youth of diverse racial, ethnic, religious, sexual, and gender identities and other cultural and linguistic groups.

3. ~~education; and~~ Services shall also be appropriate for:

a. age;

b. development; and

c. education.

4. ~~culture~~ 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, Bureau of Health Services Financing, LR 38:369 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§10303. Covered Services

A. - B.1. ...

2. group education, including elementary and secondary education; and

3. ~~medical services provided outside of the PRTF;~~
and activities not on the inpatient psychiatric active treatment plan.

4. ~~activities not on the inpatient psychiatric active treatment plan.~~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, Bureau of Health Services Financing, LR 38:369 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 105. Provider Participation

§10501. Provider Responsibilities

A. Each provider of PRTF services shall enter into a contract with ~~the Statewide Management Organization~~one or more of the MCOs and the CSOC contractor in order to receive reimbursement for Medicaid covered services.

B. - C. ...

D. Anyone providing PRTF services must be certified by the department, or its designee, in addition to operating within their scope of practice license. To be certified or recertified, providers shall meet the provisions of this Rule, the provider manual and the appropriate statutes. The provider shall create

and maintain documents to substantiate that all requirements are met.

E. PRTF facilities shall be accredited by an approved accrediting body and maintain such accreditation. Denial, loss of or any negative change in accreditation status must be reported to ~~the SMO~~its contracted MCOs and the CSoC contractor in writing within the time limit established by the department.

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 38:369 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 107. Reimbursement

§10701. ~~Reimbursement Methodology~~General Provisions

A. For recipients enrolled with the CSoC contractor, reimbursement for services shall be based upon the established Medicaid fee schedule for behavioral health services. For recipients enrolled in one of the MCOs, the department or its fiscal intermediary shall make monthly capitation payments to the MCOs. The capitation rates paid to the MCOs shall be actuarially sound rates and the MCOs will determine the rates paid to its contracted providers. No payment shall be less than

the minimum Medicaid rate. Covered inpatient, physician-directed PRTF services rendered to children and youth shall be reimbursed according to the following criteria:

1. Free-Standing PRTF Facilities. ~~A free-standing PRTF facility shall be reimbursed using an interim Medicaid per diem rate for covered services.~~ The per diem rate shall include reimbursement for the following services when ~~provided by, and in, the facility when~~ included on the active treatment plan:

a. - e. ...

2. A free-standing PRTF shall arrange through contract(s) with outside ~~(non facility)~~ providers to furnish dental, vision, and diagnostic/radiology treatment activities as listed on the treatment plan. ~~If the activity is provided in the facility, the~~The treating provider will be directly reimbursed by the MCO or the CSoC contractor. ~~Reimbursement shall be based on the established Medicaid fee schedule for the covered service, excluded from the interim per diem rates for the facility.~~

3. Hospital-Based PRTF Facilities. A hospital-based PRTF facility shall be reimbursed a per diem rate for covered services. The per diem rate shall also include reimbursement for the following services when ~~provided by, and in, the facility when~~ included on the active treatment plan:

a. - d. ...

4. Pharmacy and physician services shall be reimbursed when ~~provided by, and in, the PRTF and these services are~~ included on the recipient's active ~~treatment~~ plan of care and are components of the Medicaid covered PRTF services.

~~Payment shall be based on the established Medicaid pharmacy and physician fee schedule rates and made directly to the treating pharmacy or physician.~~ The MCO or the CSoc contractor shall make payments directly to the treating physician. The MCO shall also make payments directly to the pharmacy. These payments shall be excluded from the PRTF's ~~interim-contracted~~ per diem rates for the facility.

B. All in-state Medicaid participating PRTF providers are required to file an annual Medicaid cost report ~~according to the department's specifications and departmental guides and manuals~~ in accordance with Medicare/Medicaid allowable and non-allowable costs. ~~The cost report fiscal year must correspond to the state fiscal year.~~

C. ~~Services provided outside of the facility and/or not on the active plan of care shall not be reimbursed~~ Cost reports must be submitted annually. The due date for filing annual cost reports is the last day of the fifth month following the facility's fiscal year end. Separate cost reports must be filed for the facility's central/home office when costs of that entity are reported on the facility's cost report. If the facility

experiences unavoidable difficulties in preparing the cost report by the prescribed due date, a filing extension may be requested. A filing extension must be submitted to Medicaid prior to the cost report due date.

1. Facilities filing a reasonable extension request will be granted an additional 30 days to file their cost report.

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 38:370 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

~~§10703. In-State Publicly Owned and Operated Psychiatric Residential Treatment Facilities~~Reimbursement Methodology
(Reserved)

~~A. In State publicly owned and operated PRTFs shall be reimbursed for all reasonable and necessary costs of operation. These facilities shall receive the interim Medicaid per diem payment for services provided in, and by, the facility on the active treatment plan.~~

~~B. The interim payment to in-state publicly owned and operated PRTFs will be subject to retroactive cost settlement in accordance with Medicare allowable cost principles contained in~~

~~the Centers for Medicare and Medicaid Service's Provider Reimbursement Manual Publication 15-1.A. - B.~~ 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, Bureau of Health Services Financing, LR 38:370 (February 2012), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§10705. In-State ~~Privately Owned and Operated~~ Psychiatric Residential Treatment Facilities

A. In-State publicly and privately owned and operated PRTFs shall be reimbursed for covered PRTF services ~~using a per diem rate consistent with the provisions of §10703 above~~according to the following provisions. The ~~fee schedule~~ rate paid by the MCO or the CSOC contractor ~~to the provider will be determined by~~shall take into consideration the following ownership and service criteria:

1. free-standing ~~private owned and operated~~ PRTFs specializing in sexually-based treatment programs;

2. free-standing ~~privately owned and operated~~ PRTFs specializing in substance ~~abuse~~use treatment programs;

3. ~~hospital-based privately owned or operated~~free-standing PRTFs specializing in ~~sexually-based~~behavioral health treatment programs; ~~and~~

4. hospital-based ~~privately owned or operated~~ PRTFs specializing in ~~substance use~~sexually-based treatment programs; ~~i~~

5. hospital-based PRTFs specializing in substance use treatment programs; and

6. hospital-based PRTFs specializing in behavioral health treatment programs.

B. ...

C. - D. ...

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 38:370 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§10707. Out-of-State Psychiatric Residential Treatment Facilities

A. Out-of-state PRTFs shall be reimbursed in accordance with the ~~Medicaid fee schedule rates by applicable provider type. Any publically owned and operated PRTFs outside of Louisiana will not receive cost settlements, nor will they~~

~~receive risk sharing payments~~ MCO or CSOC contractor's established rate.

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 38:370 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health LR 41:

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 J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, September 24, 2015 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.

Kathy H. Kliebert

Secretary