

copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH  
Secretary

1605#057

## DECLARATION OF EMERGENCY

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

Pharmacy Benefits Management Program  
State Supplemental Rebate Agreement Program  
(LAC 50:XXIX.Chapter 11)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:XXIX.Chapter 11 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides Medicaid coverage of prescription drugs through its Pharmacy Benefits Management Program. The department amended the provisions governing the Pharmacy Benefits Management Program in order to establish provisions for the Medicaid Program's participation in The Optimal PDL Solution (TOP\$) State Supplemental Rebate Agreement Program which is a multi-state Medicaid state supplemental drug rebate pooling initiative (*Louisiana Register*, Volume 39, Number 10). This program allows states to leverage their pharmaceutical purchasing power as a group to achieve more supplemental rebates than could be achieved independently. It is anticipated that this program will lower the net cost of brand drugs and the overall dollars spent on pharmacy benefits. The department promulgated an Emergency Rule to assure compliance with the technical requirements of R.S. 49:953, and to continue the provisions of the October 1, 2013 Emergency Rule governing the Pharmacy Benefits Management Program which established provisions for the Medicaid Program's participation in The Optimal PDL Solution (TOP\$) State Supplemental Rebate Agreement Program (*Louisiana Register*, Volume 40, Number 3). This Emergency Rule is being promulgated to continue the provisions of the February 22, 2014 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective June 18, 2016, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the Medicaid coverage of prescription drugs to establish provisions for participation in TOP\$ State Supplemental Rebate Agreement Program.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XXIX. Pharmacy

#### Chapter 11. State Supplemental Rebate Agreement Program

##### §1101. General Provisions

A. Effective October 1, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing hereby establishes provisions for participation in The Optimal PDL Solution (TOP\$) State Supplemental Rebate Agreement (SRA) Program. TOP\$ is a multi-state Medicaid state supplemental drug rebate pooling initiative approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services and administered by Provider Synergies, L.L.C/Magellan Medicaid Administration. The purpose of this program is to allow states the opportunity to leverage their pharmaceutical purchasing power as a group to achieve more supplemental rebates and discounts from prescription drug companies than could be achieved independently.

B. Pursuant to R.S. 46:153.3, the department shall enter into a contractual agreement with Provider Synergies to participate in TOP\$. Provider Synergies/Magellan Medicaid Administration will act on the department's behalf to provide the necessary administration services relative to this agreement for the provision of state supplemental drug rebate contracting and preferred drug list administration 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 42:

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 Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH  
Secretary

1605#058

## DECLARATION OF EMERGENCY

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

Psychiatric Residential Treatment Facilities  
Licensing Standards (LAC 48:I.9047)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 48:I.9047 as authorized by R.S. 40:2179-2179.1. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and

shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the licensing standards for psychiatric residential treatment facilities (PRTFs) in order to remove service barriers, clarify appeal opportunities, avoid a reduction in occupancy of PRTFs in rural locations, and clarify the process for cessation of business (Louisiana Register, Volume 40, Number 8). The department subsequently amended the provisions of the August 20, 2014 Emergency Rule in order to revise the formatting of these provisions to ensure that these provisions are appropriately promulgated in a clear and concise manner (Louisiana Register, Volume 41, Number 11).

The department has determined that it is necessary to amend the provisions governing PRTFs in order to revise the minimum staffing requirements for staff-to-client ratios. This action is being taken to avoid imminent peril to the public health, safety and welfare of the Medicaid recipients by ensuring sufficient provider participation and recipient access to medically necessary PRTF services. It is estimated that implementation of this Emergency Rule will have no fiscal impact for state fiscal year 2016-2017.

Effective May 20, 2016, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the minimum staffing requirements for psychiatric residential treatment facilities.

#### **Title 48**

### **PUBLIC HEALTH—GENERAL**

#### **Part I. General Administration**

##### **Subpart 3. Licensing**

#### **Chapter 90. Psychiatric Residential Treatment Facilities (under 21)**

##### **Subchapter D. Human Resources**

##### **§9047. Personnel Requirements**

A. - A.4. ...

B. The facility shall maintain a minimum ratio of one staff person for four residents (1:4) between the hours of 6 a.m. and 10 p.m. The staff for purposes of this ratio shall consist of direct care staff (i.e. licensed practical nurse (LPN), MHS, MHP, LMHP, etc.).

C. The facility shall maintain a minimum ratio of one staff person for six residents (1:6) between 10 p.m. and 6 a.m. Staff shall always be awake while on duty. The staff for purposes of this ratio shall consist of direct care staff (i.e. LPN, MHS, MHP, LMHP, etc.).

D. Staffing ratios listed above are a minimum standard. The PRTF must have written policies and procedures that:

1. demonstrate how the staffing pattern will be adjusted when necessary to meet the individual needs and acuity of youth as those fluctuate over time;

2. document how the PRTF continuously monitors the appropriateness of its staffing pattern to ensure the safety of both youth and staff;

a. This documentation shall include specific methods used by the PRTF to monitor metrics such as restraints and seclusions and other adverse incidents, and documentation of how the PRTF uses this monitoring to make ongoing decisions about staffing patterns; and

3. document how the PRTF continuously monitors the appropriateness of its staffing pattern to ensure that youth receive appropriate, individualized care and treatment and therapeutic interactions;

a. This documentation shall include specific methods used by the PRTF to monitor metrics such as clinical progress and outcomes, and documentation of how the PRTF uses this monitoring to make ongoing decisions about staffing patterns.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:385 (February 2012), amended LR 42:

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH  
Secretary

1605#046

### **DECLARATION OF EMERGENCY**

#### **Department of Natural Resources Office of Conservation**

Statewide Order No. 29-B

General Provisions—Financial Security  
(LAC 43:XIX.104)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and the authority of the commissioner of Conservation pursuant to R.S. 30:1 et seq., the following Emergency Rule is necessary to protect the public health, safety and welfare of the people of the state of Louisiana.

An audit issued by the Louisiana Legislative Auditor on May 28, 2014, included recommendations that the Office of Conservation (“Conservation”) “should consider revising its current regulations and require that all operators provide financial security or some type of financial assurance on newly permitted wells or wells with amended permits,” and that Conservation “should consider revising its current regulations to increase the amount for financial security to be more reflective of the costs to properly plug and remediate orphaned well sites. In addition, financial security amounts should be periodically reviewed and adjusted to ensure they are reflective of the costs to plug and remediate orphan well sites.” In agreeing with the same, Conservation promulgated regulations (published in LR 41:952 in May 2015) to accomplish this goal.

The Legislative Auditor’s report also stated that “Effective regulation is ... important in preventing operators from abandoning their wells. If operators abandon their wells or cannot maintain their wells in compliance with regulations, [Conservation] will orphan all of the operators’ wells...” where orphaned wells are defined as “abandoned oil and gas wells for which no responsible operator can be located or