



## LNHA Regulatory Update: January 2021

### Emergency Rule

The Louisiana Department of Health (LDH), Bureau of Health Services Financing amends the provisions governing reimbursement in Professional Services and Pharmacy programs in order to adopt provisions governing vaccine administration during a declared public health emergency.

The amendment states, “administration of vaccines related to a declared public health emergency shall be reimbursed at up to 100 percent of the Louisiana Region 99 Medicare rate for the duration deemed necessary by the Medicaid Program to ensure access. If providers are required to purchase vaccines, the vaccine will be reimbursed. The amendment also states that pharmacies which acquire the vaccine “shall be reimbursed at wholesale acquisition cost (WAC) or billed charges, whichever is the lesser amount.” Further, “vaccines related to a declared public health emergency shall not be reimbursed if furnished at no cost to providers. When providers are responsible for purchasing the vaccine, the Medicaid Program shall reimburse.”

A full text of the rules can be found [here](#) on page 32 of the PDF. The Emergency Rules will be in effect for the maximum period allowed under the Act or until adoption of the Final Rule, whichever occurs first.

### Notice of Intent

#### Facility Need Review — Relocation of Nursing Facility Beds (LAC 48:I.12529)

The LDH, Bureau of Health Services Financing, proposes to amend existing regulation pertaining to facility need review. The proposed amendment gives the department the ability to approve a temporary relocation/transfer of a nursing facility’s Medicaid FNR approvals to another licensed, certified and operational nursing facility outside of the service area or parish while awaiting the completion of a replacement nursing facility building.

The amendment reads as follows:

D. In addition to Paragraphs B and C of this Section, Medicaid FNR approvals of an existing licensed and certified nursing facility that is awaiting the completion of a replacement nursing facility building, may be temporarily relocated to a licensed building that may be outside of the service area or parish of the existing FNR approved service area or parish under the following conditions.

1. The department may approve a one-time temporary relocation of a nursing facility’s Medicaid FNR approvals to another licensed building that may be outside the existing FNR approved service area or parish, provided that all of the following provisions are met:
  - a. The relocating nursing facility shall send a written request to the department’s Health Standards Section at least 30 days before the proposed temporary relocation outside the existing FNR approved service area or parish, for the department’s review and approval. This request shall include all good cause grounds for the temporary relocation of the Medicaid FNR approvals. The department will determine if approval of the temporary relocation will be granted.
  - b. The nursing facility shall not temporarily relocate to a licensed building located in a service area or parish that is greater than 100 miles from the existing licensed service area or parish of the nursing facility.

- c. The temporarily relocating nursing facility shall maintain the same number of licensed and Medicaid FNR approved beds as prior to the relocation.
- d. All temporarily relocated Medicaid FNR approvals of the licensed and certified nursing facility are subject to compliance with all state and federal licensure/certification guidelines and procedures.
- e. The temporary location shall be in compliance with all licensing and certification standards for nursing facilities and receive a temporary nursing facility license issued by the department.
- f. The temporary license shall expire 6 months from the date of issuance and the facility shall relocate to its new replacement nursing facility building during that period.

Interested persons may submit a written request to conduct a public hearing via U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, P.O. Box 629, Baton Rouge, LA 70821. Such a request must be received by close of business on February 9, 2021. If a meeting is scheduled, it will be conducted on February 25, 2021, in Room 118 of the Bienville Building, located at 628 North Fourth Street, Baton Rouge, Louisiana.

A full text of the proposed amendment can be found [here](#) on page 147 of the PDF.

#### **Nursing Facilities, Supplemental Payments, Non-State Governmental Organizations (LAC 50:II.20029)**

The LDH, Bureau of Health Services Financing proposes to amend the provisions governing the reimbursement methodology for nursing facilities in order to remove a facility that is no longer owned or operated by a non-state governmental organization (NSGO) from the list of NSGO facilities qualified to receive quarterly upper payment limit supplemental payments. The facility removed from the list was Lane Memorial Hospital Geriatric Long Term Care.

Implementation of the provisions of this Rule may be contingent upon the approval of CMS if it is determined that the submission to CMS for review and approval is required.

A full text of the proposed amendment can be found [here](#) on page 148 of the PDF.

#### **Questions**

If you have comments or concerns regarding this LNHA Regulatory Update, contact LNHA Legal and Policy Director Wes Hataway at [whataway@lnha.org](mailto:whataway@lnha.org).