HLS 202ES-422 ENGROSSED

2020 Second Extraordinary Session

1

HOUSE CONCURRENT RESOLUTION NO. 29

BY REPRESENTATIVES BUTLER AND BAGLEY

EXCEP PERSON/DEV DISABLE: Amends administrative rules regarding leave of absence days for clients of intermediate care facilities (Items #28 and 29)

A CONCURRENT RESOLUTION

2 To amend the Louisiana Department of Health rule, LAC 50:VII.33103(A)(2), which 3 provides for leaves of absence for residents of intermediate care facilities for persons 4 with intellectual and developmental disabilities, to provide for retroactive and 5 prospective application of the amendments, and to direct the office of the state register to print the amendments in the Louisiana Administrative Code. 6 7 WHEREAS, intermediate care facilities for persons with intellectual and 8 developmental disabilities, known commonly as ICF/DD and ICF/ID, are residential 9 facilities at which children and adults with special needs receive individualized health care 10 and habilitation services; and 11 WHEREAS, these facilities are regulated under the provisions of Part VI-E of 12 Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950 (R.S. 40:2180 et seq.) and 13 Subpart 3 of Part VII of the Louisiana Administrative Code (LAC 50:VII.30101 et seq.); and 14 WHEREAS, state regulations concerning Medicaid funding of ICF/ID care, which 15 provide for a system of per diem payments to these facilities, prohibit the state Medicaid 16 program, with limited exceptions, from covering more than forty-five leave of absence days 17 for any ICF/ID resident in any state fiscal year (July 1 through June 30); and 18 WHEREAS, the effect of these regulations is to make families liable for paying the 19 per diem to the ICF/ID for their loved ones' leaves of absence for the number of days 20 exceeding forty-five days in total in a state fiscal year; and

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	WHEREAS, during Louisiana's state of public health emergency that was first
2	declared on March 11, 2020, in response to the COVID-19 pandemic, and which continues
3	as of the date of filing of this Resolution, many families have chosen to provide care for
4	extended periods in their own homes for their loved ones who are ICF/ID clients; and
5	WHEREAS, in these most challenging of times, these families have made difficult
6	decisions and great sacrifices to protect the best interests of their most fragile family
7	members who cannot care for themselves; and
8	WHEREAS, many of these families now face financial hardship because their loved
9	ones have exceeded the number of Medicaid-covered ICF/ID leave of absence days allowed
10	by state regulations; and
11	WHEREAS, the provisions of R.S. 49:969 authorize the legislature, by concurrent
12	resolution, to suspend, amend, or repeal any rule or regulation adopted by a state department,
13	agency, board, or commission.
14	THEREFORE, BE IT RESOLVED by the Legislature of Louisiana that LAC
15	50:VII.33103(A)(2) is hereby amended to read as follows:
16	§33103. Payment Limitations
17	A. Temporary Absence of the Client. A client's temporary absence from an
18	ICF/ID will not interrupt the monthly vendor payment to the ICF/ID, provided the
19	following conditions are met:
20	* * *
21	2. the absence is for one of the following reasons:
22	a. hospitalization, which does not exceed seven days per hospitalization; or
23	b. leave of absence. A temporary stay outside the ICF/ID which, except for
24	any leave of absence during a declared state of public health emergency, shall be
25	provided for in the client's written individual habilitation plan. A leave of absence
26	will not exceed 45 days per fiscal year (July 1 through June 30) and. Except for any
27	leave of absence during a declared state of public health emergency, a leave of
28	absence will not exceed 30 consecutive days in any single occurrence. Certain The
29	following leaves of absence will be excluded from the annual 45-day limit as long

1	as the leave does not and, except for any leave of absence during a declared state of
2	public health emergency, shall not exceed the 30-consecutive day limit and is shall
3	be included in the written individual habilitation plan. These exceptions are as
4	follows:
5	i. Special Olympics;
6	ii. roadrunner-sponsored events;
7	iii. Louisiana planned conferences;
8	iv. trial discharge leave;
9	v. official state holidays; and
10	vi. any leave of absence during a declared state of public health emergency;
11	<u>and</u>
12	vii. vi. two days for bereavement of close family members.
13	(a). Close Family Members—parent, step-parent, child, step-child, brother,
14	step-brother, sister, step-sister, spouse, mother-in-law, father-in-law, grand-parent,
15	or grandchild.
16	(b). Declared State of Public Health Emergency—a state of public health
17	emergency declared by executive order or proclamation of the governor in
18	accordance with the provisions of R.S. 29:766.
19	* * *
20	BE IT FURTHER RESOLVED that the provisions of this Resolution shall be given
21	prospective and retroactive application and shall be applied retroactively to March 11, 2020.
22	BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the
23	office of the state register and the secretary of the Louisiana Department of Health.
24	BE IT FURTHER RESOLVED that the office of the state register is hereby directed
25	to have the amendments to LAC 50:VII.33103(A)(2) printed and incorporated into the
26	Louisiana Administrative Code.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HCR 29 Engrossed

2020 Second Extraordinary Session

Butler

Amends <u>present administrative rule</u> limiting Medicaid coverage of intermediate care facility clients' leave of absence days, with certain exceptions, to provide an exception for leaves of absence during a declared state of public health emergency.

Applies prospectively and retroactively to March 11, 2020.

(Amends LAC 50:VII.33103(A)(2))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by <u>House Committee on Health and Welfare</u> to the <u>original</u> bill:

1. In reference to services offered by intermediate care facilities, change the term "rehabilitation" to "habilitation".