

2017 Regular Session

HOUSE BILL NO. 405

BY REPRESENTATIVE HOFFMANN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

MEDICAID: Provides relative to the Medicaid long-term care services system

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AN ACT

To enact Subpart E of Part I of Chapter 5-E of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:1248.1 through 1248.6, relative to services for persons with disabilities; to provide relative to financing of such services through the Medicaid program; to establish reimbursement methodologies for providers of such services; to provide for duties of the Louisiana Department of Health relative to the Medicaid long-term care system; to provide for plans of care for persons receiving long-term care services; to require administrative rulemaking; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Subpart E of Part I of Chapter 5-E of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S. 40:1248.1 through 1248.6, is hereby enacted to read as follows:

SUBPART E. DELIVERY AND FINANCING OF LONG-TERM CARE

§1248.1. Purpose

The purpose of this Subpart is to reform the methodologies and processes governing Medicaid reimbursement for certain long-term care services in order to ensure that these services are provided in the most efficient and effective manner possible.

1 §1248.2. Definitions2 As used in this Subpart, the following terms have the meaning ascribed in this3 Section:4 (1) "Department" means the Louisiana Department of Health.5 (2) "Home- and community-based service provider" has the meaning
6 ascribed in R.S. 40:2120.2.7 (3) "Intermediate care facility for people with developmental disabilities"
8 means a facility licensed as such in accordance with the provisions of Part VI-E of
9 Chapter 11 of this Title.10 (4) "Long-term care" means services offered through home- and community-
11 based service providers, intermediate care facilities for persons with developmental
12 or intellectual disabilities, and case management to assist individuals with disabilities
13 in meeting their health, education, employment, recreational, relationship, and
14 community participation goals.15 (5) "Secretary" means the secretary of the Louisiana Department of Health.16 (6) "Support coordination agency" means a private agency which provides
17 assistance to individuals in gaining access to the full range of needed services
18 including medical, social, educational, and other support services.19 §1248.3. Medicaid long-term care services; provider reimbursement methodology20 A. The department shall reimburse providers of long-term care services in
21 accordance with the following requirements:22 (1) The department shall implement a rate methodology for Medicaid
23 personal care attendant services that includes the cost of services to be provided as
24 determined by cost reports, regulatory mandates, and incentives that are consistent
25 with national best practice priorities. Funding of any rate increase determined in
26 accordance with the methodology provided for in this Paragraph shall be subject to
27 appropriation by the legislature for this purpose.

1 (2) The department shall reimburse support coordination agencies on a
2 monthly basis for services delivered through the residential options waiver program
3 and for early and periodic screening, diagnostic, and treatment services.

4 B.(1) Notwithstanding the provisions of R.S. 40:1249.4, the department shall
5 implement a system of electronic visit verification, referred to hereafter in this
6 Subsection as an "EVV system" or "EVV", for Medicaid personal care attendant
7 services. Such system shall be consistent with the requirements provided in the 21st
8 Century Cures Act (Public Law 114-255).

9 (2) The department shall identify the cost savings resulting from the EVV
10 system and shall use such savings to reimburse home- and community-based
11 providers for the costs incurred by those providers related to the implementation of
12 EVV.

13 C. The department shall not implement any change in a methodology or
14 process for reimbursing providers of long-term care services which would result in
15 a reimbursement rate for those providers which is lower than the rate in effect on
16 July 1, 2017.

17 §1248.4. Plans of care

18 A. The department shall require utilization of electronic plans of care within
19 each Medicaid waiver program providing long-term care services, and shall provide
20 by rule for a streamlined approval process for plans of care.

21 B. Implementation of the provisions of this Section shall be subject to
22 appropriation of funds by the legislature for the purposes provided in this Section.

23 §1248.5. System of services; sustainability

24 A. The department shall identify cost savings resulting from any efficiencies
25 created within the long-term care system, including but not limited to functions
26 relating to electronic visit verification as provided in R.S. 40:1248.3(B), and shall
27 utilize such cost savings to increase reimbursement rates for long-term care providers
28 consistent with national best practice, department priorities, and current regulations.

1 B. The department shall not adopt any regulation that would result in
2 increased costs for intermediate care facilities for people with developmental
3 disabilities, home- and community-based service providers, case management
4 agencies, or support coordination agencies unless one or more of the following
5 conditions are satisfied:

6 (1) The regulation is required by an agency of the federal government.

7 (2) The regulation is required by state law.

8 (3) The department implements a corresponding rate increase to cover the
9 cost of the requirement.

10 C. The department shall identify and repeal any regulatory requirement to
11 which long-term care services are subject that results in duplication of effort.

12 D. To the extent allowed by law, the department shall develop and adopt
13 regulations that facilitate employment in the long-term care services field of
14 qualified staff persons who have prior convictions for certain criminal offenses.

15 E. The department shall review regulatory requirements for long-term care
16 services in order to identify regulations which may be repealed for the purpose of
17 decreasing the number and cost to providers of unfunded mandates.

18 F. The department shall periodically review all rules, regulations, policies,
19 manuals, and guidelines pertaining to long-term care services for the following
20 purposes:

21 (1) To ensure accuracy.

22 (2) To consider current best practices.

23 (3) To update long-term care administrative processes, including but not
24 limited to any of the following:

25 (a) Billing and payment processes.

26 (b) Medicaid audits and investigations.

27 (c) Abuse and neglect training.

28 (d) Emergency preparedness requirements.

1 §1248.6. Rules and regulations2 The department shall promulgate all rules in accordance with the3 Administrative Procedure Act as are necessary to implement the provisions of this4 Subpart.5 Section 2. The secretary of the Louisiana Department of Health shall initiate the
6 promulgation of rules required by the provisions of Section 1 of this Act through the notice
7 process provided for in R.S. 49:953(A) prior to December 1, 2017.

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)]

HB 405 Engrossed

2017 Regular Session

Hoffmann

Abstract: Provides relative to the system of Medicaid-funded long-term care services administered by the La. Dept. of Health (LDH).

Proposed law provides that its purpose is to reform the methodologies and processes governing Medicaid reimbursement for long-term care services in order to ensure that these services are provided in the most efficient and effective manner possible.

Proposed law provides the following definitions:

- (1) "Home- and community-based service provider" means an agency, institution, society, corporation, person or persons, or any other individual or group that provides one or more home- and community-based services as defined in present law (R.S. 40:2120.1 et seq.); but shall not include any of the following:
 - (a) Any person, agency, institution, society, corporation, group, or entity that solely prepares and delivers meals, that solely provides sitter services, or that solely provides housekeeping services.
 - (b) Any person, agency, institution, society, corporation, group, or entity who provides gratuitous services.
 - (c) Any licensed practical nurse or registered nurse who has a current state license in good standing and who provides personal nursing services in the home to an individual, provided that the nurse has contracted with the individual or family for such services and payment therefor.
 - (d) Staffing agencies which supply contract workers to a healthcare provider licensed by LDH.
 - (e) Any person who is employed as part of a self-direction program authorized by LDH.

- (2) "Long-term care" means services offered through home- and community-based service providers, intermediate care facilities for persons with developmental or intellectual disabilities, and case management to assist individuals with disabilities in meeting their health, education, employment, recreational, relationship, and community participation goals.
- (3) "Support coordination agency" means a private agency which provides assistance to individuals in gaining access to the full range of needed services including medical, social, educational, and other support services.

Proposed law requires LDH to reimburse providers of long-term care services in accordance with the following requirements:

- (1) LDH shall implement a rate methodology for Medicaid personal care attendant services that includes the cost of services to be provided as determined by cost reports, regulatory mandates, and incentives that are consistent with national best practice priorities. However, proposed law provides that funding of any rate increase determined in accordance with the rate methodology shall be subject to appropriation by the legislature for this purpose.
- (2) LDH shall reimburse support coordination agencies on a monthly basis for services delivered through the residential options waiver program and for early and periodic screening, diagnostic, and treatment services.

Proposed law requires LDH to implement a system of electronic visit verification (EVV) for Medicaid personal care attendant services. Provides that such system shall be consistent with the requirements provided in the 21st Century Cures Act (Public Law 114-255). Requires LDH to identify cost savings resulting from the EVV system and use such savings to reimburse home- and community-based providers for the costs they incur related to EVV system implementation.

Proposed law prohibits LDH from implementing any change in a methodology or process for reimbursing providers of long-term care services which would result in a reimbursement rate which is lower than the rate in effect on July 1, 2017.

Proposed law provides that, subject to appropriation, LDH shall require utilization of electronic plans of care within each Medicaid waiver program providing long-term care services, and shall provide by rule for a streamlined approval process for plans of care.

Proposed law requires LDH to identify cost savings resulting from any efficiencies created within the long-term care system and to utilize such cost savings to increase reimbursement rates for long-term care providers consistent with national best practice, department priorities, and current regulations.

Proposed law prohibits LDH from adopting any regulation that would result in increased costs for providers of long-term care services unless one or more of the following conditions are satisfied:

- (1) The regulation is required by an agency of the federal government.
- (2) The regulation is required by state law.
- (3) LDH implements a corresponding rate increase to cover the cost of the requirement.

Proposed law requires LDH to do all of the following with respect to long-term care services:

- (1) Identify and repeal any regulatory requirement to which long-term care services are subject that results in duplication of effort.
- (2) To the extent allowed by law, develop and adopt regulations that facilitate employment in the long-term care services field of qualified staff persons who have prior convictions for certain criminal offenses.
- (3) Review regulatory requirements for long-term care services in order to identify regulations which may be repealed for the purpose of decreasing the number and cost to providers of unfunded mandates.
- (4) Periodically review all rules, regulations, policies, manuals, and guidelines pertaining to long-term care services for the following purposes:
 - (a) To ensure accuracy.
 - (b) To consider current best practices.
 - (c) To update long-term care administrative processes, including but not limited to any of the following:
 - (i) Billing and payment processes.
 - (ii) Medicaid audits and investigations.
 - (iii) Abuse and neglect training.
 - (iv) Emergency preparedness requirements.

Proposed law requires LDH to initiate promulgation of rules required by proposed law through the notice process provided for in the Administrative Procedure Act (R.S. 49:953(A)) prior to Dec. 1, 2017.

(Adds R.S. 40:1248.1-1248.6)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Health and Welfare to the original bill:

1. Change all references to services addressed by proposed law ~~from~~ disability services to long-term care services.
2. Define "long-term care", for purposes of proposed law, as services offered through home- and community-based service providers, intermediate care facilities for persons with developmental or intellectual disabilities, and case management to assist individuals with disabilities in meeting their health, education, employment, recreational, relationship, and community participation goals.
3. Delete proposed law authorizing La. Dept. of Health (LDH) to apply a reimbursement methodology if certain conditions are satisfied; and instead require LDH implement a rate methodology for Medicaid personal care attendant services that includes the cost of services to be provided as determined by cost

- reports, regulatory mandates, and incentives that are consistent with national best practice priorities.
4. Stipulate that funding of any rate increase determined in accordance with a reimbursement methodology provided for proposed law shall be subject to appropriation by the legislature for such purpose.
 5. Add the following provisions relative to an electronic visit verification (EVV) system:
 - (a) LDH shall implement an EVV system for Medicaid personal care attendant services, and the system shall be consistent with the requirements provided in the 21st Century Cures Act (Public Law 114-255).
 - (b) LDH shall identify the cost savings resulting from the EVV system and shall use such savings to reimburse home- and community-based providers for the costs incurred by those providers related to EVV system implementation.
 6. Revise proposed law prohibiting LDH from decreasing reimbursement for long-term care services to provide, instead, that LDH shall not implement a reimbursement rate which is lower than the rate in effect on July 1, 2017.
 7. Provide that implementation of electronic plans of care as provided in proposed law shall be subject to appropriation of funds by the legislature.
 8. Delete proposed law requiring that cost savings resulting from streamlining efforts or other efficiencies be used to increase reimbursement rates for home- and community-based service providers, intermediate care facilities for people with developmental disabilities, case management agencies, and support coordination agencies. Add in lieu thereof that such cost savings shall be used to increase reimbursement rates for long-term care providers consistent with national best practice, LDH priorities, and current regulations.
 9. Prohibit LDH from adopting any regulation that would result in increased costs for intermediate care facilities for people with developmental disabilities, home- and community-based service providers, case management agencies, or support coordination agencies unless the regulation is required by state law.
 10. Require LDH to do all of the following:
 - (a) Identify and repeal any regulatory requirement to which long-term care services are subject that results in duplication of effort.
 - (b) To the extent allowed by law, develop and adopt regulations that facilitate employment in the long-term care services field of qualified staff persons who have prior convictions for certain criminal offenses.
 - (c) Review regulatory requirements for long-term care services in order to identify regulations which may be repealed for the purpose of decreasing the number and cost to providers of unfunded mandates.
 - (d) Periodically review all rules, regulations, policies, manuals, and guidelines pertaining to long-term care services for the following purposes:
 - (i) To ensure accuracy.

- (ii) To consider current best practices.
- (iii) To update long-term care administrative processes, including but not limited to any of the following:
 - (aa) Billing and payment processes.
 - (bb) Medicaid audits and investigations.
 - (cc) Abuse and neglect training.
 - (dd) Emergency preparedness requirements.
- 11. Delete proposed law requiring LDH to submit to the federal Medicaid agency prior to December 1, 2017, any revisions to Medicaid waiver program agreements, amendments to the Medicaid state plan, and other documents as are necessary to implement the provisions of proposed law.
- 12. Make technical and corrective changes.