

2016 Regular Session

HOUSE BILL NO. 170

BY REPRESENTATIVE TALBOT

MEDICAID: Requires the Dept. of Health and Hospitals to institute Medicaid cost containment measures to the extent allowed by federal regulations

## 1 AN ACT

2 To enact Part XIV of Chapter 3 of Title 46 of the Louisiana Revised Statutes of 1950, to be  
3 comprised of R.S. 46:460.101 through 460.122, relative to the medical assistance  
4 program of this state commonly known as Medicaid; to provide for duties of the  
5 Department of Health and Hospitals with respect to administration of the Medicaid  
6 program; to require implementation of certain federally authorized Medicaid cost  
7 sharing functions; to restrict Medicaid coverage of nonemergency services delivered  
8 in hospital emergency departments; to require promulgation of administrative rules;  
9 to provide for findings and definitions; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Part XIV of Chapter 3 of Title 46 of the Louisiana Revised Statutes of  
12 1950, comprised of R.S. 46:460.101 through 460.122, is hereby enacted to read as follows:

13 PART XIV. MEDICAID COST CONTAINMENT14 SUBPART A. GENERAL PROVISIONS15 §460.101. Definitions

16 As used in this Part, the following terms have the meaning ascribed in this

17 Section:

18 (1) "Centers for Medicare and Medicaid Services" means the division of the  
19 United States Department of Health and Human Services which regulates the  
20 Medicaid program.

1           (2) "Cost sharing" means a contribution that a Medicaid enrollee makes  
2           toward the cost of a Medicaid-covered health service which he utilizes, through  
3           mechanisms including but not limited to deductibles, copayments, and coinsurance.

4           (3) "Department" means the Department of Health and Hospitals.

5           (4) "Emergency room" means an emergency department operated within a  
6           hospital facility licensed pursuant to the Hospital Licensing Law, R.S. 40:2100 et  
7           seq.

8           (5) "Medicaid" and "medical assistance program" mean the medical  
9           assistance program provided for in Title XIX of the Social Security Act.

10          (6) "Secretary" means the secretary of the Department of Health and  
11          Hospitals.

12          §460.102. Legislative findings; declaration

13          A. The legislature hereby finds and affirms the following:

14          (1) From state fiscal year 2007-2008 to state fiscal year 2015-2016:

15          (a) The total annual operating budget of this state decreased by eleven and  
16          nine tenths percent.

17          (b) Total expenditures on the Medicaid program of this state increased by  
18          forty and nine tenths percent.

19          (c) State expenditures on the Medicaid program increased by ninety-four and  
20          seven tenths percent.

21          (d) Medicaid remained the largest single item in Louisiana's operating  
22          budget.

23          (2) At over eight billion three hundred eighty million dollars, Medicaid  
24          comprises thirty-four and two tenths percent of Louisiana's total operating budget in  
25          state fiscal year 2015-2016; whereas Medicaid comprised twenty-one and five tenths  
26          percent of the state's operating budget in state fiscal year 2007-2008.

27          (3) Limiting Medicaid coverage of nonemergency services delivered in  
28          hospital emergency departments is a sensible and fiscally responsible policy as it  
29          provides a prudent means of containing Medicaid costs.

1           (4) Cost containment measures in the Medicaid program are essential means  
2           for enhancing the efficiency and effectiveness of health care delivered to the  
3           population served by the program.

4           B. The legislature hereby declares that cost containment in the Medicaid  
5           program is an urgent fiscal and public health priority of this state.

6                           SUBPART B. COST SHARING

7           §460.111. Federally authorized Medicaid cost sharing; implementation

8           A.(1) The secretary shall develop and implement medical assistance program  
9           policies which apply each cost sharing function authorized pursuant to federal  
10           Medicaid regulations, 42 CFR 447.50 et seq., to Medicaid enrollees who are not  
11           specifically exempted from such cost sharing functions by the provisions of Section  
12           1916 of the Social Security Act; except the secretary shall not be required to apply  
13           any cost sharing function which is based upon an eligibility standard, health service,  
14           or any other factor or measure which is not encompassed by the Medicaid program  
15           of this state.

16           (2) In implementing the cost sharing functions required in this Subsection,  
17           the secretary shall set the amount of each cost assigned to nonexempt Medicaid  
18           enrollees at a level allowed pursuant to 42 CFR 447.50 et seq. which maximizes the  
19           net reduction of state Medicaid program expenditures resulting from the respective  
20           cost sharing function.

21           (3) Whenever a Medicaid cost sharing function is added, deleted, expanded,  
22           limited, or otherwise revised pursuant to rules and regulations promulgated by the  
23           Centers for Medicare and Medicaid Services, the secretary shall, as soon as is  
24           practicable pursuant to the effective date of such rules or regulations, revise and  
25           reinstate pertinent medical assistance program policies correspondingly to provide  
26           for such cost sharing functions and their respective levels in accordance with the  
27           provisions of Paragraphs (1) and (2) of this Subsection.

1           B. The department shall implement the coverage limitation authorized by 42  
2           CFR 447.54 for nonemergency use of a hospital emergency room in accordance with  
3           the provisions of Subpart C of this Part.

4           §460.112. Rules and regulations

5           The secretary shall promulgate all rules and regulations in accordance with  
6           the Administrative Procedure Act, submit any Medicaid state plan amendments, and  
7           take all other actions as are necessary to institute the Medicaid cost sharing functions  
8           provided for in this Subpart.

9                           SUBPART C. COVERAGE LIMITATION FOR  
10                           NONEMERGENCY SERVICES

11           §460.121. Coverage for nonemergency services; limitation

12           The secretary of the department shall develop and implement medical  
13           assistance program policies which provide for a prohibition on Medicaid  
14           reimbursement for any health care service delivered in an emergency room to a  
15           Medicaid enrollee when all of the following conditions apply:

16                   (1) The service is to treat any health condition classified by Medicaid  
17                   program policy as nonemergent.

18                   (2) The enrollee has been treated in an emergency room for any health  
19                   condition classified by Medicaid program policy as nonemergent on three separate  
20                   occasions within the past year, and the Medicaid program provided reimbursement  
21                   on each occasion for such treatment.

22           §460.122. Rules and regulations

23           The secretary shall promulgate all rules and regulations in accordance with  
24           the Administrative Procedure Act, submit any Medicaid state plan amendments, and  
25           take all other actions as are necessary to institute the limitation on coverage for  
26           nonemergent conditions provided for in this Subpart.

27           Section 2. This Act shall become effective upon signature by the governor or, if not  
28           signed by the governor, upon expiration of the time for bills to become law without signature  
29           by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

- 1 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
2 effective on the day following such approval.
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### 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)]

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HB 170 Original

2016 Regular Session

Talbot

**Abstract:** Requires the Dept. of Health and Hospitals, to the extent allowed by federal regulations, to institute Medicaid cost containment measures including cost sharing and a limitation on coverage of nonemergency services delivered in hospital emergency rooms.

### General provisions

Proposed law provides the following findings relative to the cost of the Medicaid program:

- (1) From state fiscal year 2007-2008 to state fiscal year 2015-2016:
  - (a) The total annual operating budget of this state decreased by 11.9%.
  - (b) Total expenditures on the Medicaid program of this state increased by 40.9%.
  - (c) State expenditures on the Medicaid program increased by 94.7%.
  - (d) Medicaid remained the largest single item in Louisiana's operating budget.
- (2) At over \$8,380,000,000, Medicaid comprises 34.2% of Louisiana's total operating budget in state fiscal year 2015-2016; whereas Medicaid comprised 21.5% of the state's operating budget in state fiscal year 2007-2008.

Proposed law finds that limiting Medicaid coverage of nonemergency services delivered in hospital emergency departments is a sensible and fiscally responsible policy as it provides a prudent means of containing Medicaid costs; and that cost containment measures in the Medicaid program are essential means for enhancing the efficiency and effectiveness of health care delivered to the population served by the program.

Proposed law declares that cost containment in the Medicaid program is an urgent fiscal and public health priority of this state.

Proposed law requires the secretary of the Department of Health and Hospitals (DHH) to promulgate all rules and regulations, submit any Medicaid state plan amendments, and take all other actions as are necessary to implement the provisions of proposed law.

### Medicaid Cost Sharing

Proposed law requires DHH to develop and implement policies which apply each cost sharing function authorized pursuant to federal Medicaid regulations, 42 CFR 447.50 et seq., to Medicaid enrollees who are not specifically exempted from such cost sharing functions by federal law; except the secretary shall not be required to apply any cost sharing function which is based upon an eligibility standard, health service, or any other factor or measure which is not encompassed by the Medicaid program of this state.

Functions authorized pursuant to federal Medicaid regulations which proposed law requires DHH to impose include the following:

- (1) Cost sharing for inpatient and outpatient services (42 CFR 447.52).
- (2) Cost sharing for preferred and nonpreferred drugs (42 CFR 447.53).
- (3) Cost sharing for nonemergency services furnished in a hospital emergency department (42 CFR 447.54).
- (4) Assessment of premiums upon individuals whose income exceeds certain levels specified in federal regulations (42 CFR 447.55).

Proposed law provides that in implementing the cost sharing functions required in proposed law, DHH shall set the amount of each cost assigned to nonexempt Medicaid enrollees at a level allowed by federal regulations which maximizes the net reduction of state Medicaid program expenditures resulting from the respective cost sharing function.

Proposed law provides that whenever a Medicaid cost sharing function is added, deleted, expanded, limited, or otherwise revised pursuant to rules and regulations promulgated by the federal Medicaid agency, DHH shall revise and reinstate the pertinent policies correspondingly to provide for such cost sharing functions and their respective levels.

#### **Limitation on Medicaid Coverage for Certain Nonemergency Services**

Proposed law requires DHH to develop and implement policies which provide for a prohibition on Medicaid reimbursement for any health care service delivered in an emergency room to a Medicaid enrollee when all of the following conditions apply:

- (1) The service is to treat any health condition classified by Medicaid program policy as nonemergent.
- (2) The enrollee has been treated in an emergency room for any health condition classified by Medicaid program policy as nonemergent on three separate occasions within the past year, and the Medicaid program provided reimbursement on each occasion for such treatment.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 46:460.101-460.122)