



## LNHA State Regulatory Update: March 2018

### Potpourri

#### **Public Hearing — Substantive Changes to Proposed Rule: Nursing Facilities — Admissions and Continued Stay Criteria (LAC 50:II.Chapter 5)**

On February 20, 2018, the Louisiana Department of Health (LDH) published a Notice of Intent to amend regulations regarding admissions and continued stay criteria. After publication, LNHA contacted LDH regarding the proposal and was told changes to the initial proposal would be forthcoming. The Potpourri notice details the changes to the original Notice of Intent and the overall changes to Admissions and Continued Stay Criteria.

We have reviewed the rules with the Office of Aging and Adult Services. Many of the changes are a restructuring of the regulation in order to better reflect the current process. There are a couple of substantive changes. First, under the section “Vendor Payments,” the proposed rule requires the nursing facility to “submit a completed BHSF Form 148 immediately upon admission, to the local Medicaid eligibility office and OAAS indicating the anticipated payment source for the nursing facility service.” Also, the proposed rule states “LOCET will not be accepted as sufficient evidence of medical need for an individual who has been discharged for a period of less than 14 calendar days unless there is additional supporting documentation demonstrating a significant change in status.” Instead, a “continued stay request” must now contain “documentation to support the request for continued stay including a MDS 3.0 conducted no more than 14 calendar days prior to the request.”

Click [here](#) to view the full text of the proposed changes. The proposed rule is on page 315. To compare the existing regulation, click [here](#) on page 67. A public hearing on these substantive changes to the proposed rule is scheduled for April 26, 2018, at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, Louisiana.

### Notice of Intent

#### **Nursing Facilities Standards for Payment (LAC 50:II.10101 and 10156)**

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:II.10101 and 10156 in the Medical Assistance Program. The department proposes to amend the provisions governing the standards for payments for nursing facilities in order to clarify the definitions of admissions and continued stay, clarify the provisions governing the levels of care pathways and eliminate the behavior pathway for meeting nursing facility level of care. In fact, *“effective upon the promulgation of this Rule, the behavior pathway will be eliminated as a pathway for meeting nursing facility level of care.”* Current residents who meet the facility level of care by triggering the behavior pathway prior to the promulgation of this rule shall continue to remain eligible for services requiring nursing facility level of care until: a) the individual is discharged from long term care services, or b) the individual has been found eligible for services in another program or setting more appropriate to their needs.

The full text of the Notice of Intent can be found [here](#) on page 262. A public hearing regarding the proposed rule is scheduled for April 26, 2018, at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, Louisiana.

**Healthcare Services Provider Fees (LAC 48:I.Chapter 40)**

In compliance with the requirements of HCR 8 of the 2017 Regular Session, the Department of Health proposes to amend the provisions governing the provider fees for nursing facilities, intermediate care facilities for individuals with developmental disabilities and pharmacy services to more closely align these provisions with current governing authorities and to ensure they are promulgated in a clear and concise manner. No substantive changes appear to have been made.

The full text of the Notice of Intent can be found [here](#) on page 259. A public hearing regarding the proposed rule is scheduled for April 26, 2018, at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, Louisiana.

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