



## LNHA Regulatory Update: March 2019

### Emergency Rule

#### **Nursing Facilities – Licensing Standards Virtual Visitation (LAC 48:I.9781)**

On November 20, 2018, the Louisiana Department of Health (LDH) enacted an Emergency Rule governing virtual visitation. The rule addressed the criteria for determining a resident's capacity to consent to electronic monitoring. In summary, the rule stated the following: a resident's capacity is presumed if the resident has not been interdicted or there is no documented medical diagnosis affecting capacity; questions regarding the capacity of a non-interdicted resident shall be determined by the resident's admitting physician or the medical director of the nursing facility; and the facility shall have a policy regarding capacity to consent.

The Emergency Rule is being promulgated in order to continue the provisions of the prior Emergency Rule and no changes have been made. A full text of the rule can be found [here](#) on page 11 of the PDF.

### Final Rule

#### **Telemedicine – Claims Submissions (LAC 50:I.503)**

Medicaid covered services provided via an interactive audio and video telecommunications system (telemedicine) shall be identified on claims submissions by appending the HIPAA compliant place of service (POS) or modifier to the appropriate procedure code in line with the current policy. The rule is effective March 20, 2019, but implementation of the provisions of this rule may be contingent upon the approval of the Centers for Medicare & Medicaid Services (CMS) if it is determined that the submission to CMS for review and approval is required. A full text of the rule can be found [here](#) on page 436 of the PDF.

### Notice of Intent

#### **Nursing Facilities Reimbursement Methodology (LAC 50:II.20026)**

LDH proposes to adopt a reimbursement methodology for a nursing facility that is operated with an entity that has a Cooperative Endeavor Agreement (CEA) with the Louisiana State University (LSU) to conduct a geriatric nursing facility training program at the location of the current John J. Hainkel, Jr. Home and Rehabilitation Center (Hainkel Home).

The proposed rule states effective for dates of service on or after July 1, 2019, LDH shall provide a private nursing facility reimbursement rate of \$365.68 per resident per day to an entity that has a CEA with LSU to operate the current Hainkel Home or any future locations of the Hainkel Home. The rate is all-inclusive. Add-ons shall not be permitted under this reimbursement rate. An annual cost report shall be filed with LDH and the provisions of the rule are subject to approval by CMS of a State Plan amendment authorizing such payment.

A full text of the rule can be found [here](#) on page 456 of the PDF. If you have a comment to this proposed rule, submit the comment to LDH Rulemaking Coordinator at P.O. Box 629, Baton Rouge, LA 70821 by April 9. LDH will host a public hearing of the proposed rules at 9:30 a.m. on April 25 in Room 118 of the Bienville Building at 628 North Fourth St., Baton Rouge, LA.

### Questions

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