



LNHA State Regulatory Update: October 2017

Each month, the Division of Administration publishes the Louisiana Register which chronicles the executive orders and regulatory changes proposed or enacted by the state. To keep our members abreast of any regulatory changes, Wes Hataway, LNHA Legal and Policy Director, publishes a monthly summary of regulatory changes affecting our profession. Click [here](#) to view the October edition.

Emergency Rules

Nursing Facilities: Reimbursement Methodology (LAC 50:II.20001)

This Emergency Rule continues the provisions of the July 1, 2017, Emergency Rule. The prior Emergency Rule amended the provisions governing the reimbursement methodology for nursing facilities in order to impose provisions to ensure that the current rates in effect do not increase for the state fiscal year ("SFY") 2018 rating period. This was needed due to the budgetary shortfall in SFY 2017-2018.

LNHA chronicled these changes in our July Administrative Rules Update. The provisions are as follows:

- C. Effective for the rate period of July 1, 2017, through June 30, 2018, the Department shall suspend the provisions of LAC 50:II.Chapter 200 governing the reimbursement methodology for nursing facilities and impose the following provisions governing reimbursements for nursing facility services.
 1. During this time period, no inflation factor will be applied to the base resident day weighted medians and prices calculated as of July 1, 2016.
 2. All costs and cost components that are required by Rule to be trended forward will only be trended forward to the midpoint of the 2017 state fiscal year (December 31, 2016).
 3. The base capital per square foot value, land value per square foot, and per licensed bed equipment value utilized in the calculation of the fair rental value (FRV) component will be set equal to the value of these items as of July 1, 2016.
 4. Base capital values for the Bed Buy-Back Program (LAC 50:II.20012) purposes will be set equal to the value of these items as of July 1, 2016.
 5. Nursing facility providers will not have their weighted age totals for the FRV component calculation purposes increased by one year as of July 1, 2017.
 6. As of the July 1, 2018, rate setting, nursing facility provider weighted age totals for the FRV component calculation purposes will be increased by two years to account for the suspended year of aging occurring as of the July 1, 201, rate period.
 7. No other provisions of LAC 50:II. Chapter 200 shall be suspended for this time period.

The Emergency Rule is effective October 30, 2017, and remains in effect for the maximum period allowed under the Act or until the adoption of the Final Rule, whichever comes first.

Recovery Audit Contractor Program (LAC 50:I.Chapter 85)

The Patient Protection and Affordable Care Act (PPACA) directed states to establish a Recovery Audit Contractor (RAC) Program to audit payments to Medicaid providers. Act 568 of the 2014 Regular Session of the Louisiana Legislature directed the Louisiana Department of Health (LDH) to implement a recovery audit program. On November 20, 2014, an Emergency Rule adopted provisions to establish the RAC program. The current Emergency Rule simply continues the provisions of the prior Emergency Rule.

Notice of Intent

Home Health Program: Home Health Encounters and Services (LAC 50:XIII.Chapters 1-5)

In compliance with Act 299 of the 2011 Regular Session of the Louisiana Legislature, the Louisiana Department of Health, Bureau of Health Services Financing amended the provisions governing home health services in order to adopt provisions establishing mandatory cost reporting requirements for providers of home health services (*Louisiana Register*, Volume 39, Number 3). The Department now proposes to amend the provisions governing home health services in order to comply with Centers for Medicare and Medicaid Services (CMS) regulations requiring face-to-face encounters to clarify the provisions governing home health services settings and to remove the visit limit for adult recipients in order to align services with those received by the Medicaid expansion population.

The complete text of the proposed rule can be found here (p. 2028). A public hearing on this proposed rule is scheduled for November 29, 2017, at 9:30 a.m. in Room 118, Bienville Building, 628 Fourth St., Baton Rouge, Louisiana.

Final Rules

Adult Day Health Care: Licensing Standards (LAC 48:I.Chapter 42)

In July, LDH published a Notice of Intent regarding licensing standards for Adult Day Health Care. Since its introduction, the proposed rules have been properly implemented through the administrative process. As such, the rules became final on October 20, 2017. A full text of the rules can be found on page 92 of the [PDF](#).

Adult Residential Care Providers: Licensing Standards (LAC 48.I.Chapter 68)

In July, LDH published a Notice of Intent regarding licensing standards for Adult Residential Care Providers. Since its introduction, the proposed rules have been properly implemented through the administrative process. As such, the rules became final on October 20, 2017. A full text of the rules can be found on page 104 of the [PDF](#).

Home and Community-Based Service Waivers: Standards for Participation (LAC 50:XXI.101, 301, 305, and Chapter 9)

In July, LDH published a Notice of Intent regarding home and community-based service waivers and its standards for participation. Since its introduction, the proposed rules have been properly implemented through the administrative process. As such, the rules became final on October 20, 2017. A full text of the rules can be found on page 105 of the [PDF](#).

Personal Care Services: Long Term Standards for Participation (LAC 50:XV.12901 and 12909)

In July, LDH published a Notice of Intent regarding personal care services and standards for participation. Since its introduction, the proposed rules have been properly implemented through the administrative process. As such, the rules became final on October 20, 2017. A full text of the rules can be found here on page 108 of the [PDF](#).

If you have any questions or comments regarding this update, contact LNHA's Legal and Policy Director, Wes Hataway, at whataway@lnha.org.