

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

Regulation 53—Basic Health Insurance Plan Pilot Program
(LAC 37:XIII.Chapter 31)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend Regulation 53—Basic Health Insurance Plan Pilot Program. The purpose of the amendment to Regulation 53 is to modify terminology relative to accident and health insurance and insurance producers and to update statutory references that have been redesignated.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 31. Regulation Number 53—Basic Health Insurance Plan Pilot Program

§3101. Purposes

A. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR

§3103. Applicability and Scope

A. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR

§3105. Definitions

A. For the purposes of this regulation:

Accidental Injury—bodily injury sustained as the result of an unforeseen event and which is the direct reason for receiving care and treatment (independent of disease, bodily infirmity or any other cause). Such care shall occur while coverage under the pilot is in force. It does not include injuries for which benefits are provided under any workers' compensation, employers' liability, or for which another party is liable under automobile, property and casualty, and other coverage.

Admission—begins the first day an insured becomes a registered hospital inpatient and continues until insured is discharged from the facility.

Adult—an individual who is greater than 24 but less than 65 years of age.

Applicant—an individual who applies for coverage under the LA Health Plan.

Authorized Carrier—the health insurance carrier or health maintenance organization licensed and in compliance with the Louisiana Insurance Code certified by the department to offer the LA Health Plan.

Benefit Payment—the amount the authorized carrier will pay for covered services. See §§3127-3133 of this regulation.

Benefit Period—one year, also referred to as year or calendar year. The benefit period does not begin before the insured's effective date. The benefit period does not continue after the insured's coverage ends.

Clinic—a facility for the diagnosis, care and treatment of outpatients.

Commissioner—the Louisiana Commissioner of Insurance.

Co-Payment—the cost-sharing fee charged to an insured under LA Health as specified in the contract between the authorized carrier for LA Health and the insured.

Department—the Louisiana Department of Insurance.

Dependent—

- a. the spouse and all unmarried children under the age of 24;
- b. children include natural children, legally adopted children and step-children. Also included are children (or children of a spouse) for whom an insured has legal responsibility resulting from a valid court decree. Foster children that an insured expects to raise to adulthood and that live with an insured in a regular parent-child relationship are considered children;
- c. students who are unmarried children who have not yet attained the age of 24 and who are enrolled as fulltime students and who are dependent upon the primary insured;
- d. mentally retarded or physically handicapped children remain covered to age 21 at which time they are eligible for their own individual coverage;
- e. a child's coverage ends when any of the following occurs:
 - i. marriage or attaining age 21 (whichever comes first);
 - ii. termination of an insured's coverage under the LA Health Plan; or
 - iii. if a child over age 21 no longer qualifies as a full-time student.

Effective Date—the date an applicant becomes eligible for coverage under an authorized carrier for the LA Health Plan.

Hospital—an institution, licensed by the state, which:

- a. provides inpatient services and is compensated by or on behalf of its patients;
- b. primarily provides medical and surgical facilities to diagnose, treat and care for the injured or sick;
- c. has a staff of physicians licensed to practice medicine by the Louisiana State Board of Medical Examiners;
- d. provides nursing care by registered nurses or:

NOTE: The term *hospital* does not mean:

1. an extended care facility, nursing home, community based care, or group home;
2. a place of rest;
3. a facility for the aged;

4. a custodial institution whose primary purpose is to furnish food, shelter, training, or unskilled or nonmedical services; or

5. an institution for exceptional or handicapped children. licensed practical nurses on duty 24-hours-a-day.

Insurance Producer or Producer— an individual who is licensed by the commissioner as an insurance producer pursuant to the provisions of R.S. 22:1541-1566.

Insured—an individual domiciled in this state who is eligible to receive benefits from an authorized carrier under the LA Health Plan.

LA Health—the Louisiana Basic Health Insurance Plan Pilot Program.

Louisiana Insurance Code—Title 22 of the Louisiana Revised Statutes of 1950.

Mental and Nervous Disorders—includes (whether organic or nonorganic, whether of biological, nonbiological, genetic, chemical, or nonchemical origin, and irrespective of cause, basis or inducement) mental disorders, mental illnesses, psychiatric illnesses, mental conditions and psychiatric conditions. This includes, but is not limited to, psychoses, neurotic disorders, schizophrenic disorders, affective disorders, personality disorders and psychological or behavioral abnormalities associated with transient or permanent dysfunction of the brain or related neurohormonal systems. This is intended to include disorders, conditions, and illnesses listed in Diagnostic and Statistical Manual of Mental Disorders (DSM-IIIIR).

Minor Dependent—a dependent under the age of 24.

Non-Smoker—an individual who has not smoked cigarettes, cigars, pipes or other substances within the past year.

Participating Hospital—a hospital located in Louisiana which has concluded a written agreement with, and in form approved by, an authorized carrier under the LA Health Plan.

Participating Provider—a licensed health care provider who has concluded an agreement with, and in form approved by, an authorized carrier under the LA Health Plan to serve those insured by LA Health.

Pilot Plan—a plan that provides an insured with health insurance under the LA Health program and is governed by R.S. 22:2241-2247 and authorized by the commissioner.

Pilot Program—the program of health insurance which is authorized by R.S. 22:2241-2247.

Provider—includes any discipline licensed by the state of Louisiana to provide and be directly reimbursed for services covered by the LA Health Plan including, but not limited to, the following:

a. doctor of medicine (M.D.) legally entitled to practice medicine and perform surgery by the Louisiana State Board of Medical Examiners;

b. doctor of chiropractic (D.C.) legally entitled to practice chiropractic services;

c. doctor of podiatric medicine (D.P.M.) legally entitled to practice podiatry;

d. all providers shall be licensed by the state of Louisiana.

Semiprivate Room—a hospital room which has 2, 3, or 4 beds.

Service Area—that part of the state of Louisiana in which the authorized carrier is applying to offer or is offering the pilot plan.

Skilled Nursing Care—care required, while recovering from an illness or injury, which is received in a skilled nursing facility. This care requires a level of care or services less than that in a hospital, but more than could be given in the patient's home or in a nursing home not certified as a skilled nursing facility.

Smoker—an individual who has smoked cigarettes, cigars, pipes or other substances within the past year or who is currently smoking cigarettes, cigars, pipes or other substances.

Utilization Review—a function performed by an authorized carrier under the LA Health Plan or an entity selected by the carrier to review and approve whether the services provided, or to be provided, are medically necessary including, but not limited to, whether acute hospitalization, length of stay, outpatient care, or diagnostic services are appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR

§3107. Pilot Plan in General

A. – D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR

§3109. Pilot Plan Authorized Carrier

A. – B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR

§3111. Application Process

A. – C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR

§3113. Authorization of Pilot Plan

A. – B.5. ...

C. The LA Health Plan shall not be issued or delivered to an applicant for the plan until a copy of the form is filed and approved by the commissioner. The commissioner shall review these forms in accordance with the Louisiana Insurance Code.

D. ...

E. The commissioner, in accordance with the Louisiana Insurance Code, may make, or cause to be made, an examination of the books and records of the authorized carrier of the LA Health Plan as the commissioner deems necessary to ensure compliance with these regulations and the pilot plan agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR

§3115. Revocation of an Authorized Carrier's Authority

A. ...

1. the authorized carrier's plan does not comply with R.S. 22:2241-2247 or the Louisiana Insurance Code;

2. an authorized carrier becomes subject to suspension or revocation of its certificate or authority under the Louisiana Insurance Code;

A.3. – D.3 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR

§3117. Evaluation and Reporting Requirements

A. – C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR

§3119. Premium Taxes

A. Premium taxes required under R.S. 22:842 shall be imposed on an authorized carrier.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR

§3121. Guaranty Association

A. All applicable assessments for the Louisiana Life and Health Insurance Guaranty Association shall be imposed on an authorized carrier in accordance with R.S. 22:2081-2099.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR

§3123. Health Insurance Producers

A. For purposes of serving a LA Health Plan policy or soliciting prospective insureds for such a policy, insurance producers licensed for the line of accident and health or sickness shall be deemed to be servicing and soliciting within the scope of their license, pursuant to R.S. 22:1541-1547 and 22:255 of the Louisiana Insurance Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR

§3125. Eligibility

A. Eligibility for coverage and the effective date for an insured shall be determined by the authorized carrier after an applicant has returned the application for coverage to the authorized carrier and has been approved by said carrier. Eligibility for the LA Health Plan is limited to Louisiana residents with income levels below 250 percent of the federal poverty level. Individuals with major medical accident and health insurance coverage, individuals who are eligible for coverage under the Medicaid or Medicare programs, and those who have voluntarily canceled their accident and health insurance coverage during the last six months are not eligible under the LA Health Plan. The only exception to this requirement is for those individual eligibles who are without coverage because their coverage furnished in accordance with R.S. 22:1046, group health continuation coverage, has expired; or for those individual eligibles with significantly reduced coverage through benefit riders or limitations.

B. – G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR

§3127. Benefits

A. ...

B. No requirement of the Louisiana Insurance Code relating to minimum required policy benefits, other than the minimum standards contained in this regulation or in R.S. 22:2241-2247, shall apply to the LA Health Plan, its insureds, or the authorized carrier.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR

§3129. Hospital Services

A. – B.2 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR

§3131. Emergency Room Benefits

A. – B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR

§3133. Provider Services

A. – G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR

§3135. Limitations

A. – A.3 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR

§3137. Exclusions

A. – A.35 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR

§3139. Outpatient Prescription Rider

A. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR

§3141. Premium Maximums, Method for Calculating

A. Premiums charged for the LA Health pilot plans shall be based on the average standard rate charged by the five largest health and accident insurers offering individual coverage in the state, as identified by the Louisiana Health Insurance Association's annual survey in accordance to R.S. 22:1213.E.3. Annual survey results may be obtained from the department. For the purpose of calculating the maximum premiums as established in §3141.B of this regulation, insurers shall use the premiums identified in the Louisiana Health Insurance Association's Plan "A" and shall use the strict average of male and female rates.

B. – B.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR

§3143. Payment of Benefits

A. – B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR

§3145. General Provisions

A. – D. ...

E. An authorized carrier may change the amount of monthly premium for the LA Health Plan in compliance with the Louisiana Insurance Code. Payment by the insured of the new rate is sufficient to indicate acceptance of the new rate.

F. The LA Health Plan shall be governed by the laws and regulations of the state of Louisiana and specifically those of the LA Health Plan. Nothing in the LA Health Plan shall be construed so as to be in violation of any federal or state law or regulation with the exception of laws specifically preempted by R.S. 22:2241-2247.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR

§3147. Termination of Coverage

A. – B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed regulation should have no impact upon the rights and authority of parents regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Poverty Impact Statement

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed regulation should have no measurable impact on small businesses; therefore, there is no less intrusive or less costly alternative method of achieving the purpose of the proposed regulation.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed regulation will have no effect.

Public Comments

Interested persons who wish to make comments may do so by writing to Jennifer Land, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, by faxing comments to (225) 342-1632, or electronically at regulations@ldi.la.gov. Comments will be accepted through the close of business, 4:30 p.m., November 10, 2022.

James J. Donelon
Commissioner

Fiscal and Economic Impact Statement

1. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS. (Summary)

The proposed rule is not anticipated to result in implementation costs or savings to the state or local governmental units. The proposed rule is being amended to modify terminology relative to accident and health insurance and insurance producers and to update statutory references that have been redesignated.

2. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS. (Summary)

The proposed rule will have no impact on state or local governmental revenues.

3. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS. (Summary)

The proposed rule is not anticipated to have any costs and/or economic benefits to directly affected persons, small businesses, or non-governmental groups. The rule is being amended to modify terminology and updates statutory references that have been redesignated.

4. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT. (Summary)

The proposed rule will have no impact upon competition and employment in the state.