

2018 Regular Session

HOUSE BILL NO. 362

BY REPRESENTATIVE HOFFMANN

MEDICAID: Provides relative to the state's system of Medicaid-funded long-term care

1 AN ACT

2 To enact Subpart E of Part I of Chapter 5-E of Title 40 of the Louisiana Revised Statutes of  
3 1950, to be comprised of R.S. 40:1248.1 through 1248.6, relative to services for  
4 persons with disabilities; to provide relative to financing of such services through the  
5 Medicaid program; to establish reimbursement methodologies for providers of such  
6 services; to provide for duties of the Louisiana Department of Health relative to the  
7 Medicaid long-term care system; to provide for plans of care for persons receiving  
8 long-term care services; to require administrative rulemaking; and to provide for  
9 related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Subpart E of Part I of Chapter 5-E of Title 40 of the Louisiana Revised  
12 Statutes of 1950, comprised of R.S. 40:1248.1 through 1248.6, is hereby enacted to read as  
13 follows:

14 SUBPART E. DELIVERY AND FINANCING OF LONG-TERM CARE

15 §1248.1. Purpose

16 The purpose of this Subpart is to reform the methodologies and processes  
17 governing Medicaid reimbursement for certain long-term care services in order to  
18 ensure that these services are provided in the most efficient and effective manner  
19 possible.

1        §1248.2. Definitions2                As used in this Subpart, the following terms have the meaning ascribed in this3        Section:4                (1) "Department" means the Louisiana Department of Health.5                (2) "Home- and community-based service provider" has the meaning  
6        ascribed in R.S. 40:2120.2.7                (3) "Intermediate care facility for people with developmental disabilities"  
8        means a facility licensed as such in accordance with the provisions of Part VI-E of  
9        Chapter 11 of this Title.10              (4) "Long-term care" means services offered through home- and community-  
11        based service providers, intermediate care facilities for persons with developmental  
12        or intellectual disabilities, and case management to assist individuals with disabilities  
13        in meeting their health, education, employment, recreational, relationship, and  
14        community participation goals.15              (5) "Secretary" means the secretary of the Louisiana Department of Health.16              (6) "Support coordination agency" means a private agency which provides  
17        assistance to individuals in gaining access to the full range of needed services  
18        including medical, social, educational, and other support services.19        §1248.3. Medicaid long-term care services; provider reimbursement methodology20              A. The department shall reimburse providers of long-term care services in  
21        accordance with the following requirements:22              (1) The department shall implement a rate methodology for Medicaid  
23        personal care attendant services that includes the cost of services to be provided as  
24        determined by cost reports, regulatory mandates, and incentives that are consistent  
25        with national best practice priorities. Funding of any rate increase determined in  
26        accordance with the methodology provided for in this Paragraph shall be subject to  
27        appropriation by the legislature for this purpose.

1           (2) The department shall reimburse support coordination agencies on a  
2           monthly basis for services delivered through the residential options waiver program  
3           and for early and periodic screening, diagnostic, and treatment services.

4           B.(1) Notwithstanding the provisions of R.S. 40:1249.4, the department shall  
5           implement a system of electronic visit verification, referred to hereafter in this  
6           Subsection as an "EVV system" or "EVV", for Medicaid personal care attendant  
7           services. Such system shall be consistent with the requirements provided in the 21st  
8           Century Cures Act (Public Law 114-255).

9           (2) The department shall identify the cost savings resulting from the EVV  
10          system and shall use such savings to reimburse home- and community-based  
11          providers for the costs incurred by those providers related to the implementation of  
12          EVV.

13          C. The department shall not implement any change in a methodology or  
14          process for reimbursing providers of long-term care services which would result in  
15          a reimbursement rate for those providers which is lower than the rate in effect on  
16          July 1, 2018.

17          D. Implementation of the provisions of this Section shall be subject to  
18          appropriation of funds by the legislature for the purposes provided in this Section.  
19          §1248.4. Plans of care

20          A. The department shall require utilization of electronic plans of care within  
21          each Medicaid waiver program providing long-term care services, and shall provide  
22          by rule for a streamlined approval process for plans of care.

23          B. Implementation of the provisions of this Section shall be subject to  
24          appropriation of funds by the legislature for the purposes provided in this Section.  
25          §1248.5. System of services; sustainability

26          A. The department shall identify cost savings resulting from any efficiencies  
27          created within the long-term care system, including but not limited to functions  
28          relating to electronic visit verification as provided in R.S. 40:1248.3(B), and shall

1 utilize such cost savings to increase reimbursement rates for long-term care providers  
2 consistent with national best practice, department priorities, and current regulations.

3 B. The department shall not adopt any regulation that would result in  
4 increased costs for intermediate care facilities for people with developmental  
5 disabilities, home- and community-based service providers, case management  
6 agencies, or support coordination agencies unless one or more of the following  
7 conditions are satisfied:

8 (1) The regulation is required by an agency of the federal government.

9 (2) The regulation is required by state law.

10 (3) The department implements a corresponding rate increase to cover the  
11 cost of the requirement.

12 C. The department shall identify and repeal any regulatory requirement to  
13 which long-term care services are subject that results in duplication of effort.

14 D. To the extent allowed by law, the department shall develop and adopt  
15 regulations that facilitate employment in the long-term care services field of  
16 qualified staff persons who have prior convictions for certain criminal offenses.

17 E. The department shall review regulatory requirements for long-term care  
18 services in order to identify regulations which may be repealed for the purpose of  
19 decreasing the number and cost to providers of unfunded mandates.

20 F. The department shall periodically review all rules, regulations, policies,  
21 manuals, and guidelines pertaining to long-term care services for the following  
22 purposes:

23 (1) To ensure accuracy.

24 (2) To consider current best practices.

25 (3) To update long-term care administrative processes, including but not  
26 limited to any of the following:

27 (a) Billing and payment processes.

28 (b) Medicaid audits and investigations.

29 (c) Abuse and neglect training.

1                    (d) Emergency preparedness requirements.

2                    §1248.6. Rules and regulations

3                    The department shall promulgate all rules in accordance with the  
4                    Administrative Procedure Act as are necessary to implement the provisions of this  
5                    Subpart.

6                    Section 2. The secretary of the Louisiana Department of Health shall initiate the  
7                    promulgation of rules required by the provisions of Section 1 of this Act through the notice  
8                    process provided for in R.S. 49:953(A) prior to December 1, 2018.

#### 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)]

HB 362 Original

2018 Regular Session

Hoffmann

**Abstract:** Provides relative to the system of Medicaid-funded long-term care services administered by the La. Dept. of Health (LDH).

Proposed law provides that its purpose is to reform the methodologies and processes governing Medicaid reimbursement for long-term care services in order to ensure that these services are provided in the most efficient and effective manner possible.

Proposed law provides the following definitions:

- (1) "Home- and community-based service provider" means an agency, institution, society, corporation, person or persons, or any other individual or group that provides one or more home- and community-based services as defined in present law (R.S. 40:2120.1 et seq.); but shall not include any of the following:
  - (a) Any person, agency, institution, society, corporation, group, or entity that solely prepares and delivers meals, that solely provides sitter services, or that solely provides housekeeping services.
  - (b) Any person, agency, institution, society, corporation, group, or entity who provides gratuitous services.
  - (c) Any licensed practical nurse or registered nurse who has a current state license in good standing and who provides personal nursing services in the home to an individual, provided that the nurse has contracted with the individual or family for such services and payment therefor.
  - (d) Staffing agencies which supply contract workers to a healthcare provider licensed by LDH.
  - (e) Any person who is employed as part of a self-direction program authorized by LDH.

- (2) "Long-term care" means services offered through home- and community-based service providers, intermediate care facilities for persons with developmental or intellectual disabilities, and case management to assist individuals with disabilities in meeting their health, education, employment, recreational, relationship, and community participation goals.
- (3) "Support coordination agency" means a private agency which provides assistance to individuals in gaining access to the full range of needed services including medical, social, educational, and other support services.

Proposed law requires LDH to reimburse providers of long-term care services in accordance with the following requirements:

- (1) LDH shall implement a rate methodology for Medicaid personal care attendant services that includes the cost of services to be provided as determined by cost reports, regulatory mandates, and incentives that are consistent with national best practice priorities. However, proposed law provides that funding of any rate increase determined in accordance with the rate methodology shall be subject to appropriation by the legislature for this purpose.
- (2) LDH shall reimburse support coordination agencies on a monthly basis for services delivered through the residential options waiver program and for early and periodic screening, diagnostic, and treatment services.

Proposed law requires LDH to implement a system of electronic visit verification (EVV) for Medicaid personal care attendant services. Provides that such system shall be consistent with the requirements provided in the 21st Century Cures Act (Public Law 114-255). Requires LDH to identify cost savings resulting from the EVV system and use such savings to reimburse home- and community-based providers for the costs they incur related to EVV system implementation.

Proposed law prohibits LDH from implementing any change in a methodology or process for reimbursing providers of long-term care services which would result in a reimbursement rate which is lower than the rate in effect on July 1, 2018.

Proposed law provides that, subject to appropriation, LDH shall require utilization of electronic plans of care within each Medicaid waiver program providing long-term care services, and shall provide by rule for a streamlined approval process for plans of care.

Proposed law requires LDH to identify cost savings resulting from any efficiencies created within the long-term care system and to utilize such cost savings to increase reimbursement rates for long-term care providers consistent with national best practice, department priorities, and current regulations.

Proposed law prohibits LDH from adopting any regulation that would result in increased costs for providers of long-term care services unless one or more of the following conditions are satisfied:

- (1) The regulation is required by an agency of the federal government.
- (2) The regulation is required by state law.
- (3) LDH implements a corresponding rate increase to cover the cost of the requirement.

Proposed law requires LDH to do all of the following with respect to long-term care services:

- (1) Identify and repeal any regulatory requirement to which long-term care services are subject that results in duplication of effort.
- (2) To the extent allowed by law, develop and adopt regulations that facilitate employment in the long-term care services field of qualified staff persons who have prior convictions for certain criminal offenses.
- (3) Review regulatory requirements for long-term care services in order to identify regulations which may be repealed for the purpose of decreasing the number and cost to providers of unfunded mandates.
- (4) Periodically review all rules, regulations, policies, manuals, and guidelines pertaining to long-term care services for the following purposes:
  - (a) To ensure accuracy.
  - (b) To consider current best practices.
  - (c) To update long-term care administrative processes, including but not limited to any of the following:
    - (i) Billing and payment processes.
    - (ii) Medicaid audits and investigations.
    - (iii) Abuse and neglect training.
    - (iv) Emergency preparedness requirements.

Proposed law requires LDH to initiate promulgation of rules required by proposed law through the notice process provided for in the Administrative Procedure Act (R.S. 49:953(A)) prior to Dec. 1, 2018.

(Adds R.S. 40:1248.1-1248.6)