

Regular Session, 2013

HOUSE BILL NO. 251

BY REPRESENTATIVE TALBOT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

MEDICAID: Requires DHH to institute Medicaid cost containment measures to the extent allowed by federal regulations

1 AN ACT

2 To enact Part VI-B of Chapter 3 of Title 46 of the Louisiana Revised Statutes of 1950, to be  
3 comprised of R.S. 46:440.5 through 440.8, relative to the medical assistance  
4 program; to provide for legislative findings; to provide for definitions; to provide for  
5 cost containment measures; to require implementation of certain federally authorized  
6 medical assistance cost sharing functions; to provide for a limitation on medical  
7 assistance program coverage for certain health services delivered in hospital  
8 emergency departments; to provide for conditions under which such coverage  
9 limitation applies; to provide for an official list of conditions to be classified as  
10 nonemergent for the purposes of such coverage limitation; to provide for duties of  
11 the secretary of the Department of Health and Hospitals; to provide for promulgation  
12 of rules and regulations; and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. Part VI-B of Chapter 3 of Title 46 of the Louisiana Revised Statutes of  
15 1950, comprised of R.S. 46:440.5 through 440.8, is hereby enacted to read as follows:

16 PART VI-B. MEDICAL ASSISTANCE PROGRAM COST CONTAINMENT

17 SUBPART A. FINDINGS AND DEFINITIONS

18 §440.5. Legislative findings and declaration

19 The Legislature of Louisiana does hereby find and declare the following:

20 (1) Medicaid constitutes the largest single programmatic item in the budget  
21 of this state.

1           (2) The system of funding for the Medicaid program as currently structured  
2           is unsustainable, and cost containment in this major assistance program is an urgent  
3           priority of this state.

4           (3) It is the intent of the legislature by enactment of this Part to contain  
5           Medicaid program costs while protecting the health of the persons who utilize the  
6           program.

7           (4) In preliminary rules published in January of 2013, the Centers for  
8           Medicare and Medicaid Services of the United States Department of Health and  
9           Human Services initiated an unprecedented Medicaid reform measure by proposing  
10          "to update and simplify the complex Medicaid premiums and cost sharing  
11          requirements to promote the most effective use of services and to assist states in  
12          identifying cost sharing flexibilities" (78 Fed. Reg. 4595 (January 22, 2013)).

13          (5) Limiting Medicaid coverage of nonemergency services delivered in  
14          hospital emergency departments is a sensible and fiscally responsible policy as it  
15          provides a prudent means of containing Medicaid costs.

16          (6) Cost containment measures in the Medicaid program are essential means  
17          for enhancing the efficiency and effectiveness of health care delivered to the  
18          population served by the program. Therefore the legislature declares that it shall be  
19          the policy of this state to pursue all available Medicaid cost containment  
20          opportunities authorized by federal law, regulation, and policy.

21          §440.6. Definitions

22                 As used in this Part, the following terms shall have the meaning ascribed to  
23                 them in this Section:

24                 (1) "Centers for Medicare and Medicaid Services" means the division of the  
25                 United States Department of Health and Human Services which regulates the  
26                 Medicaid program.

27                 (2) "Cost sharing" means a contribution that a Medicaid enrollee makes  
28                 toward the cost of a Medicaid-covered health service which he utilizes, through  
29                 mechanisms including but not limited to deductibles, copayments, and coinsurance.



1 for such cost sharing functions and their respective maximum levels in accordance  
2 with the provisions of Paragraphs (1) and (2) of this Subsection.

3 B. In implementing the provisions of this Subpart, the secretary shall take  
4 all of the following actions:

5 (1) Promulgate all rules and regulations in accordance with the  
6 Administrative Procedure Act, and take all other actions as are necessary, to institute  
7 the Medicaid cost sharing functions provided for in this Subpart.

8 (2) Cause the rules and regulations required by this Subpart to take effect on  
9 or before January 1, 2014.

10 SUBPART C. NONEMERGENCY SERVICES - LIMITATION

11 ON COVERAGE

12 §440.8. Limitation on coverage for nonemergent conditions; rules and regulations

13 A. The secretary of the department shall develop and implement medical  
14 assistance program policies which provide for all of the following:

15 (1) A prohibition on Medicaid reimbursement for any health care service  
16 delivered in an emergency room to a Medicaid enrollee when all of the following  
17 conditions apply:

18 (a) The service is to treat any health condition classified by Medicaid  
19 program policy as nonemergent.

20 (b) The enrollee has been treated in an emergency room for any health  
21 condition classified by Medicaid program policy as nonemergent on three separate  
22 occasions within the past year, and the Medicaid program provided reimbursement  
23 on each occasion for such treatment.

24 (2) An official list of distinct medical conditions with corresponding  
25 diagnosis codes to be classified as nonemergent for the purposes of the Medicaid  
26 coverage limitation provided in this Subpart. The official list of nonemergent  
27 conditions required by this Paragraph shall not include any medical condition which  
28 manifests itself by acute symptoms of sufficient severity that the absence of

1 immediate medical attention could, in reasonable medical judgment, be expected to  
2 result in any of the following:

3 (a) Placing the health of the patient in serious jeopardy.

4 (b) Posing serious impairment to bodily functions.

5 (c) Placing the patient at serious risk of dysfunction of any bodily organ or  
6 part.

7 B. In implementing the provisions of this Subpart, the secretary shall take  
8 all of the following actions:

9 (1) Promulgate all rules and regulations in accordance with the  
10 Administrative Procedure Act, and take all other actions as are necessary, to  
11 implement the limitation on Medicaid coverage provided for in this Subpart.

12 (2) Cause the rules and regulations required by this Subpart to take effect on  
13 or before April 1, 2014.

14 Section 2. This Act shall become effective upon signature by the governor or, if not  
15 signed by the governor, upon expiration of the time for bills to become law without signature  
16 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
17 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
18 effective on the day following such approval.

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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)]

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Talbot

HB No. 251

**Abstract:** Requires DHH, to the extent allowed by federal regulations, to institute Medicaid cost containment measures including cost sharing and a limitation on coverage of nonemergency services delivered in hospital emergency rooms.

**General provisions**

Proposed law declares that the intent of proposed law is to contain Medicaid program costs while protecting the health of the persons who utilize the program. Declares that cost containment measures are essential means for enhancing the efficiency and effectiveness of health care delivered to those served by the Medicaid program. Further declares that it shall be the policy of this state to pursue all cost containment opportunities authorized by federal Medicaid policy.

Proposed law provides that for the purposes of proposed law, "cost sharing" means a contribution that a Medicaid enrollee makes toward the cost of a Medicaid-covered health service which he utilizes, through mechanisms including but not limited to deductibles, copayments, and coinsurance.

Proposed law provides that for the purposes of proposed law, "emergency room" means an emergency department operated within a hospital facility duly licensed pursuant to licensure requirements of present law.

### **Medicaid Cost sharing**

Proposed law requires the secretary of DHH to develop and implement policies which apply each Medicaid cost sharing function authorized pursuant to federal Medicaid regulations, to Medicaid enrollees who are not specifically exempted by federal law from such cost sharing. However, proposed law creates an exception to this requirement which provides that the secretary is not mandated to apply any cost sharing function which is based upon an eligibility standard, health service, or any other factor or measure which is not encompassed by the Medicaid program of this state.

Proposed law provides that in implementing the cost sharing functions required by proposed law, the secretary of DHH shall set the amount of each cost assigned to nonexempt Medicaid enrollees at the maximum level allowed by federal regulations.

Proposed law provides that whenever a Medicaid cost sharing function is added, deleted, expanded, limited, or otherwise revised pursuant to federal rules and regulations, the secretary of DHH shall, as soon as is practicable pursuant to the effective date of such rules or regulations, revise and reinstate medical assistance program policies accordingly to provide for such cost sharing functions and their respective maximum levels as set forth in proposed law.

Proposed law requires the secretary of DHH to take all of the following actions in implementing proposed law:

- (1) Promulgate all rules and regulations, and take all other actions as are necessary, to institute the Medicaid cost sharing functions provided for in proposed law.
- (2) Cause the rules and regulations provided for in proposed law to take effect on or before January 1, 2014.

### **Limitation on Medicaid coverage for certain nonemergency services**

Proposed law imposes an annual limit of three Medicaid-covered nonemergency visits to emergency rooms by program beneficiaries.

Proposed law requires the secretary of DHH to take the following actions:

- (1) Develop an official list of distinct medical conditions with corresponding diagnosis codes to be classified as nonemergent for the purposes of proposed law.
- (2) Promulgate rules and regulations and take such other actions as are necessary to implement the provisions of proposed law.
- (3) Cause the rules and regulations provided for in proposed law to take effect on or before April 1, 2014.

Proposed law prohibits the official list of nonemergent conditions to be developed pursuant to proposed law from including any medical condition which manifests itself by acute

symptoms of sufficient severity that the absence of immediate medical attention could, in reasonable medical judgment, be expected to result in any of the following:

- (1) Placing the health of the patient in serious jeopardy.
- (2) Posing serious impairment to bodily functions.
- (3) Placing the patient at serious risk of dysfunction of any bodily organ or part.

**Effective date**

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 46:440.5-440.8)