

Regular Session, 2013

HOUSE CONCURRENT RESOLUTION NO. 7

BY REPRESENTATIVE BARROW

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

HEALTH/HOME CARE: Suspends laws authorizing DHH to implement resource allocation models for Medicaid-covered home- and community-based long-term care services

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A CONCURRENT RESOLUTION

To suspend until sixty days after final adjournment of the 2014 Regular Session of the Legislature of Louisiana the provisions of Part LXIX of Chapter 5 of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S. 40:1300.321 through 1300.323, relative to resource allocation models for Medicaid-covered home- and community-based long term care services; and to urge the Department of Health and Hospitals to implement a more equitable system of reimbursement for the various types of providers of long term care.

WHEREAS, Part LXIX of Chapter 5 of Title 40 of the Louisiana Revised Statutes of 1950 has several deficiencies, notably in the following provisions:

(1) R.S. 40:1300.321(A) and (B) present findings relative to costs of Medicaid-funded home- and community-based health care services, and such findings lack any recognition of the dramatic escalation of demand for these services over more expensive institutional care.

(2) R.S. 40:1300.321(C) cites the extensive waiting list for home- and community-based services as a legislative finding; yet the ensuing provisions of law have been applied by the Department of Health and Hospitals in such a way as to make drastic cuts to funding for these exact services, which, coupled with unprecedented demand for the services, has only exacerbated the waiting list problem.

1 (3) R.S. 40:1300.323(A)(1) sets forth the major effect of this Part of law, requiring  
2 the Department of Health and Hospitals to impose resource allocation models for certain  
3 Medicaid waiver programs; however, though this Part contains a definitions section,  
4 "resource allocation model" is not defined in either the Part or anywhere else in state statute;  
5 and

6 WHEREAS, as utilized by the department, these models have functioned as a tool  
7 to cut Medicaid funding to providers of in-home supports by roughly forty percent since the  
8 models were implemented while preserving far higher reimbursement levels for institutional  
9 providers over the same period with no significant cuts whatsoever to those providers; and

10 WHEREAS, in-home support providers are a vital component of the state's overall  
11 system of health care, as senior citizens and people with disabilities are increasingly  
12 choosing to live in their own homes and remain in their communities as opposed to living  
13 in an institutional setting; and

14 WHEREAS, according to a 2007 study commissioned by Clarity and The EAR  
15 Foundation entitled "Aging in Place in America", eighty-nine percent of senior citizens wish  
16 to live in their home, with home- and community-based supports if needed, rather than in  
17 an institutional setting; and

18 WHEREAS, despite the critical role that in-home support providers play in health  
19 care for seniors and people with disabilities, these providers receive chronically inadequate  
20 rates of Medicaid reimbursement in this state and remain among the most financially  
21 vulnerable enterprises in all of the health care sector of this state's economy; and

22 WHEREAS, because eighty-five to ninety percent of a typical Louisiana in-home  
23 support provider's total expenditures go to payroll, any disruption or delay in claims payment  
24 poses a direct threat to the provider's ability to deliver services; and

25 WHEREAS, in addition to reimbursement delays to which the department began  
26 subjecting all Medicaid providers in 2012 purportedly to facilitate fraud detection, the  
27 department subjects in-home support providers to a further three- to four-day payment delay  
28 resulting from a process termed "review of billing irregularities" by Statistical Resources,  
29 Incorporated (SRI), a contractor of the department; and

1           WHEREAS, with respect to fraud and abuse detection, in-home support providers  
2 are subjected to numerous additional processes beyond the review by SRI, which include the  
3 following:

4           (1) Quarterly self-monitoring by providers as required by the department to validate  
5 that service delivery occurs in compliance with the patient's plan of care.

6           (2) Licensing surveys conducted by the health standards section of the department.

7           (3) Comprehensive provider audits initiated by the office of program integrity of the  
8 department.

9           (4) Periodic Payment Error Rate Measurement audits by the medical vendor  
10 administration unit of the department.

11           (5) Claims review by Molina Medicaid Solutions, the Medicaid fiscal intermediary  
12 of the department.

13           (6) Reviews to determine prior authorization for billing by the waiver units of the  
14 office of aging and adult services and the office for citizens with developmental disabilities  
15 of the department.

16           (7) Supports Intensity Scale and Minimum Data Set assessments of level of service  
17 need administered by the office of aging and adult services and the office for citizens with  
18 developmental disabilities of the department.

19           (8) Examination by the Surveillance and Utilization Review System of the Louisiana  
20 legislative auditor.

21           (9) Examination by the Medicaid Fraud Control Unit of the United States  
22 Department of Justice; and

23           WHEREAS, in-home support providers are thus held to what is arguably a far higher  
24 standard of integrity than any other type of health care provider enrolled in the Medicaid  
25 program of this state; and

26           WHEREAS, many in-home support providers believe that beyond setting  
27 increasingly onerous reimbursement policies, officials of the department take deliberate  
28 efforts to insinuate, and sometimes state outright, that fraud is endemic in the home- and  
29 community-based services industry; and

1           WHEREAS, any such insinuations or statements suggesting that in-home support  
2 providers are inherently fraudulent represent a patent insult to an industry which, despite  
3 systemic and unjustifiable cuts to its reimbursement rates, faithfully provides the type of  
4 high-quality care that increasing numbers of Louisiana citizens demand to maintain  
5 independence, comfort, and well-being.

6           THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby  
7 suspend the provisions of Part LXIX of Chapter 5 of Title 40 of the Louisiana Revised  
8 Statutes of 1950, comprised of R.S. 40:1300.321 through 1300.323, relative to resource  
9 allocation models for Medicaid-covered home- and community-based long term care.

10           BE IT FURTHER RESOLVED that the suspension of Part LXIX of Chapter 5 of  
11 Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S. 40:1300.321 through  
12 1300.323, relative to home- and community-based long-term care, shall become effective  
13 upon adoption of this Resolution and shall extend through the sixtieth day after final  
14 adjournment of the 2014 Regular Session of the Legislature of Louisiana.

15           BE IT FURTHER RESOLVED that the Department of Health and Hospitals is  
16 hereby urged to establish a more equitable system of reimbursement for the various types  
17 of providers of long term care enrolled in the Medicaid program of this state.

18           BE IT FURTHER RESOLVED that a suitable copy of this Resolution be transmitted  
19 to the secretary of the Department of Health and Hospitals.

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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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Barrow

HCR No. 7

Suspends provisions of the Home- and Community-based Long-Term Care Act relative to resource allocation models for Medicaid-covered home- and community-based long term care services until 60 days after adjournment of the 2014 R.S.

(Suspends R.S. 40:1300.321-1300.323)