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## DIGEST

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HB 309 Original

2016 Regular Session

Bacala

**Abstract:** Requires the Dept. of Health and Hospitals, to the extent allowed by federal regulations, to institute cost containment measures in the Medicaid managed care program; and to implement a Medicaid managed long term services and supports system.

### General Provisions

Proposed law provides the following findings relative to the cost of the Medicaid program:

- (1) From state fiscal year 2007-2008 to state fiscal year 2015-2016:
  - (a) The total annual operating budget of this state decreased by 11.9%.
  - (b) Total expenditures on the Medicaid program of this state increased by 40.9%.
  - (c) State expenditures on the Medicaid program increased by 94.7%.
  - (d) Medicaid remained the largest single item in Louisiana's operating budget.
- (2) At over \$8,380,000,000, Medicaid comprises 34.2% of Louisiana's total operating budget in state fiscal year 2015-2016; whereas Medicaid comprised 21.5% of the state's operating budget in state fiscal year 2007-2008.

Proposed law declares that cost containment in the Medicaid program is an urgent fiscal and public health priority of this state.

### Medicaid Pharmacy Limitations

Present law provides relative to private entities that contract with the Department of Health and Hospitals (DHH) to provide Medicaid benefits and services to enrollees in the Medicaid managed care program. Requires that each such entity form a body to be designated as a "Pharmaceutical and Therapeutics Committee" which shall develop a drug formulary and preferred drug list for the entity's Medicaid managed care network.

Proposed law retains present law and adds thereto a requirement that each Pharmaceutical and Therapeutics Committee exclude from its preferred drug list and prohibit prior authorization of all of the following products:

- (1) Any medication sold by a pharmaceutical company under a trademark-protected name, known commonly as a "brand name drug", if a generic equivalent medication is commercially available and is less costly than the net cost of the brand name drug inclusive of all rebate amounts for the brand name drug.
- (2) Any medication which has a nonprescription equivalent, known commonly as an "over-the-counter" drug.

### **Medicaid Cost Sharing**

Proposed law requires DHH to develop and implement policies which apply each cost sharing function authorized pursuant to federal Medicaid regulations, 42 CFR 447.50 et seq., to Medicaid enrollees who are not specifically exempted from such cost sharing functions by federal law; except the secretary shall not be required 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.

Functions authorized pursuant to federal Medicaid regulations which proposed law requires DHH to impose include the following:

- (1) Cost sharing for inpatient and outpatient services (42 CFR 447.52).
- (2) Cost sharing for preferred and nonpreferred drugs (42 CFR 447.53).
- (3) Cost sharing for nonemergency services furnished in a hospital emergency department (42 CFR 447.54).
- (4) Assessment of premiums upon individuals whose income exceeds certain levels specified in federal regulations (42 CFR 447.55).

Proposed law provides that in implementing the cost sharing functions required in proposed law, DHH shall set the amount of each cost assigned to nonexempt Medicaid enrollees at a level allowed by federal regulations which maximizes the net reduction of state Medicaid program expenditures resulting from the respective cost sharing function.

Proposed law provides that whenever a Medicaid cost sharing function is added, deleted, expanded, limited, or otherwise revised pursuant to rules and regulations promulgated by the federal Medicaid agency, DHH shall revise and reinstate the pertinent policies correspondingly to provide for such cost sharing functions and their respective levels.

Proposed law dedicates to the New Opportunities Waiver Fund all state revenues derived as a result of the cost sharing requirements provided for in proposed law. Provides that the state treasurer shall annually deposit into the New Opportunities Waiver Fund monies in an amount equal to the net reduction in Medicaid provider reimbursements corresponding to the cost sharing amounts assessed to Medicaid enrollees pursuant to proposed law.

## **Coverage Limitation for Nonemergency Services**

Proposed law requires DHH to develop and implement policies which prohibit Medicaid reimbursement for any healthcare service delivered in an emergency room to a Medicaid enrollee when all of the following conditions apply:

- (1) The service is to treat any health condition classified by Medicaid program policy as nonemergent.
- (2) The enrollee has been treated in an emergency room for any health condition classified by Medicaid program policy as nonemergent on three separate occasions within the past year, and the Medicaid program provided reimbursement on each occasion for such treatment.

## **Managed Long Term Services and Supports**

Proposed law defines "managed long term services and supports" and "MLTSS" as a system for delivery of long term services and supports through a capitated Medicaid managed care program.

Proposed law requires DHH to submit to the federal Medicaid agency any new waiver application, amendment to an existing waiver, and Medicaid state plan amendment as may be necessary to establish an MLTSS system within the Medicaid managed care program through a waiver authorized pursuant to Section 1915(b) of the Social Security Act. Provides that such applications and amendments may include, but shall not be limited to, the following:

- (1) Amendments to the Community Choices Waiver and Adult Day Health Care Waiver to operate under a managed care model concurrent with a Section 1915(b) waiver for MLTSS.
- (2) Revisions to the Behavioral Health Services Waiver to exclude populations covered through the MLTSS system.
- (3) Amendments to authorize the operation of community behavioral health services delivered pursuant to Section 1915(i) of the Social Security Act through multiple managed care entities rather than a single prepaid inpatient health plan.
- (4) The following changes to the Long-Term Personal Care Services (LT-PCS) program:
  - (a) Amendments to allow self-direction to be implemented statewide within the program.
  - (b) Amendments to allow LT-PCS participants to purchase goods and services.
  - (c) Revision of the timeline for conducting LT-PCS reassessments from annually to at least once every eighteen months.

Proposed law requires DHH to promulgate all rules and regulations in accordance with the Administrative Procedure Act as are necessary to institute the MTLSS system provided for in

proposed law.

Proposed law provides that the secretary of DHH shall take all such actions as are necessary to ensure that implementation of the MLTSS system provided for in proposed law is effective not later than July 1, 2016.

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

(Amends R.S. 46:460.32; Adds R.S. 39:100.61(B)(1)(c), R.S. 46:460.101-460.122, and R.S. 46:460.131-460.133)