

2020 First Extraordinary Session

HOUSE BILL NO. 20

BY REPRESENTATIVES VILLIO AND BACALA

MEDICAID: Provides for the implementation of a Medicaid managed long-term services and supports system (Item #38)

1 AN ACT

2 To enact Part XIV of Chapter 3 of Title 46 of the Louisiana Revised Statutes of 1950, to be  
3 comprised of R.S. 46:460.101, relative to Medicaid-funded long-term services and  
4 supports; to provide for delivery of such services through a managed care program;  
5 to provide for duties of the Louisiana Department of Health in administering the  
6 Medicaid managed care program; to provide for submission of an application to the  
7 Centers for Medicare and Medicaid Services by a certain date; to provide for  
8 minimum application criteria; to provide for a request for proposals process; to  
9 provide for sources of funding; to provide for audits; to establish deadlines for  
10 program implementation; to provide for rulemaking; and to provide for related  
11 matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. Part XIV of Chapter 3 of Title 46 of the Louisiana Revised Statutes of  
14 1950, comprised of R.S. 46:460.101, is hereby enacted to read as follows:

15 PART XIV. MEDICAID MANAGED LONG-TERM SERVICES AND SUPPORTS

16 §460.101. Medicaid managed long-term services and supports; findings; minimum  
17 requirements

18 A. The Legislature of Louisiana finds and declares the following:

19 (1) Managed long-term services and supports, referred to hereafter in this  
20 Part as "MLTSS", refers to the delivery of Medicaid services for individuals

1 receiving home- and community-based services or institutional-based services and  
2 individuals at highest risk of needing those services through capitated Medicaid  
3 managed care programs that coordinate the provision of all physical, behavioral, and  
4 long-term health services.

5 (2) States utilize MLTSS programs as a strategy for improving access to  
6 home- and community-based services, promoting community inclusion, ensuring  
7 quality, and increasing efficiency and fiscal sustainability of their Medicaid  
8 programs.

9 (3) Senior citizens represent the largest population receiving Medicaid  
10 long-term care services, and this state would best serve its seniors by implementing  
11 programs that have an emphasis on choice, consumer-driven care, and services that  
12 actively promote community-based alternatives.

13 (4) Individuals receiving Medicaid funded long-term services and supports  
14 are the only beneficiary group currently excluded from Medicaid managed care,  
15 leaving them ineligible for new types of services that could better integrate care  
16 management, promote independence, employment, wellness, and recovery, or detect  
17 and delay the increased risks associated with chronic disease.

18 (5) The Centers for Medicare and Medicaid Services referred to hereafter in  
19 this Part as "CMS", has given states great flexibility in selecting an approved  
20 managed care authority, including demonstrations or waivers, that best apply to the  
21 MLTSS program developed by each state.

22 B.(1) The secretary of the Louisiana Department of Health shall develop and  
23 implement a Louisiana MLTSS program and submit an application for the program,  
24 based on the most appropriate managed care authority, to CMS. The secretary may  
25 use in the application existing materials, including waiver drafts and stakeholder  
26 input, if the materials comply with the requirements of this Section.

27 (2) The Louisiana MLTSS program shall apply to the following populations:

28 (a) Medicaid recipients who are elderly or who have adult-onset disabilities  
29 and who meet the eligibility requirements for and are receiving long-term services

1 and supports through a Medicaid state plan or waiver program designed specifically  
2 for the population, including but not limited to nursing facilities, home- and  
3 community-based waivers, or state plan personal care programs.

4 (b) Recipients who are receiving both Medicaid and Medicare benefits and  
5 are not otherwise receiving long-term services and supports.

6 (c) The provisions of this Section shall not apply to Medicaid recipients  
7 eligible for and receiving services due to an intellectual or developmental disability.

8 C. The secretary of the Louisiana Department of Health shall ensure that the  
9 MLTSS program application includes and expounds upon the following elements  
10 that have been set forth by CMS in guidance to the states as minimum components  
11 that will increase the likelihood of a high quality MLTSS program:

12 (1) Demonstration of adequate planning and design.

13 (2) Formal process for ongoing education of stakeholders.

14 (3) Enhanced provision of home- and community-based services, consistent  
15 with the Americans with Disabilities Act and *Olmstead v. L.C.*, 527 U.S. 581 (1999),  
16 that deliver long-term services and supports in the most integrated fashion, in the  
17 most integrated setting, and in a way that offers the greatest opportunity for active  
18 community and workforce participation.

19 (4) Alignment of payment structures and goals to hold providers accountable  
20 through performance-based incentives or penalties.

21 (5) Beneficiary support such that MLTSS participants have access to  
22 conflict-free education and assistance that is accessible, ongoing, and consumer  
23 friendly.

24 (6) Person-centered processes that include needs assessments, service  
25 planning, and service coordination policies and protocols.

26 (7) Comprehensive, integrated service packages that require a MLTSS  
27 managed care organization to provide or coordinate the provision of all physical,  
28 behavioral, and long-term health services.

1           (8) A qualified MLTSS managed care organization provider network to  
2           ensure long-term service and support providers sufficient enough in amount to  
3           provide adequate access to all individuals covered by the program.

4           (9) Participant protections to ensure that participant health and welfare is  
5           protected in the MLTSS program.

6           (10) A quality improvement strategy that is transparent and appropriately  
7           tailored to address the unique needs of the MLTSS population.

8           D.(1) The secretary of the Louisiana Department of Health shall ensure that  
9           a request for proposals is issued no later than sixty days after the application  
10           submitted to CMS pursuant to Paragraph (B)(1) of this Section. MLTSS managed  
11           care plans shall be selected through a competitive request for proposals process in  
12           accordance with the Louisiana Procurement Code, R.S. 39:1551 et seq.

13           (2) The secretary may utilize an existing request for proposals to satisfy the  
14           provisions of this Subsection if it complies with mandatory minimum qualifications,  
15           including but not limited to the following:

16           (a) Demonstrated successful MLTSS plan coverage and operation in another  
17           state Medicaid MLTSS program.

18           (b) Provision of all physical, behavioral, pharmacy, facility-based, and  
19           community-based healthcare services and supports, in addition to any other services  
20           required by the secretary. If there is a separate single Medicaid contract for the  
21           provision of any service listed in this Subsection, such service may be excluded from  
22           the MLTSS contract.

23           (c) Appointment of an independent ombudsman to assist recipients with any  
24           questions or concerns regarding coverage in the MLTSS program.

25           (d) Establish a provider reimbursement rate floor at the Medicaid  
26           fee-for-service rate in effect on September 1, 2020.

27           (e) Establish requirements for timely payments to providers and penalties for  
28           failure to remit timely payments.

1           (f) The office of aging and adult services of the Louisiana Department of  
2           Health shall retain authority for determining recipient eligibility for Medicaid-funded  
3           long-term services and supports for the population covered by this Section, including  
4           all initial assessments and recertifications.

5           (3) The secretary shall select at least two, but no more than three, capitated  
6           managed care plans to implement the MLTSS program.

7           E. Sources of funding for the implementation and administration of the  
8           MLTSS program may include monies dedicated in accordance with R.S. 46:2623,  
9           R.S. 22:842(C), and any other monies allowed by law.

10          F. One year prior to the expiration of any contract entered into to implement  
11          the provisions of this Section, the legislative auditor shall conduct and issue a fiscal  
12          and performance audit of the program, including an audit of the contractor and an  
13          audit of oversight of the contract by the Louisiana Department of Health. The  
14          legislative auditor shall have access to all information in the custody and control of  
15          the contractor needed to conduct the audit.

16          G. The secretary of the Louisiana Department of Health shall promulgate  
17          rules and regulations in accordance with the Administrative Procedure Act as are  
18          necessary to implement the provisions of this Section.

19          Section 2. The secretary of the Louisiana Department of Health shall submit to the  
20          Centers for Medicare and Medicaid Services the application required by the provisions of  
21          R.S. 46:460.101(B)(1), as enacted by Section 1 of this Act, no later than January 1, 2021.

22          Section 3. The secretary of the Louisiana Department of Health shall take all such  
23          actions as are necessary to ensure that the Medicaid managed long-term services and  
24          supports program provided for in R.S. 46:460.101, as enacted by Section 1 of this Act, is  
25          fully implemented, and participant coverage by a managed long-term services and supports  
26          managed care plan or plans is available, no later than July 1, 2022.

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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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HB 20 Original

2020 First Extraordinary Session

Villio

**Abstract:** Provides for implementation of a Medicaid managed long-term services and supports system for the elderly and certain persons with disabilities.

Proposed law provides for implementation of a managed long-term services and supports (MLTSS) program within Medicaid. Provides that MLTSS refers to the delivery of Medicaid services for individuals receiving home- and community-based services or institutional-based services and individuals at highest risk of needing those services through capitated Medicaid managed care programs that coordinate the provision of all physical, behavioral, and long-term health services.

Proposed law requires the secretary of the La. Department of Health (LDH) to develop and implement an MLTSS program and submit an application for the program to the federal Centers for Medicare and Medicaid Services (CMS) no later than Jan. 1, 2021. Provides that the secretary may use in the application existing materials, including waiver drafts and stakeholder input, if the materials comply with the requirements of proposed law.

Proposed law provides that the La. MLTSS program shall apply to the following populations:

- (1) Medicaid recipients who are elderly or who have adult-onset disabilities and who meet the eligibility requirements for and are receiving long-term services and supports through a Medicaid state plan or waiver program designed specifically for the population, including but not limited to nursing facilities, home- and community-based waivers, or state plan personal care programs.
- (2) Recipients who are receiving both Medicaid and Medicare benefits and are not otherwise receiving long-term services and supports.
- (3) The provisions of this Section shall not apply to Medicaid recipients eligible for and receiving services due to an intellectual or developmental disability.

Proposed law requires the secretary of LDH to ensure that the MLTSS program application includes the following elements that have been set forth by CMS as minimum components that will increase the likelihood of a high-quality program:

- (1) Demonstration of adequate planning and design.
- (2) Formal process for ongoing education of stakeholders.
- (3) Enhanced provision of home- and community-based services, consistent with the Americans with Disabilities Act and *Olmstead v. L.C.*, 527 U.S. 581 (1999), that deliver long-term services and supports in the most integrated fashion, in the most integrated setting, and in a way that offers the greatest opportunity for active community and workforce participation.
- (4) Alignment of payment structures and goals to hold providers accountable through performance-based incentives or penalties.

- (5) Beneficiary support such that MLTSS participants have access to conflict-free education and assistance that is accessible, ongoing, and consumer friendly.
- (6) Person-centered processes that include needs assessments, service planning, and service coordination policies and protocols.
- (7) Comprehensive, integrated service packages that require a MLTSS managed care organization to provide or coordinate the provision of all physical, behavioral, and long-term health services.
- (8) A qualified MLTSS managed care organization provider network to ensure long-term service and support providers sufficient enough in amount to provide adequate access to all individuals covered by the program.
- (9) Participant protections to ensure that participant health and welfare is protected in the MLTSS program.
- (10) A quality improvement strategy that is transparent and appropriately tailored to address the unique needs of the MLTSS population.

Proposed law requires the secretary of LDH to ensure that a request for proposals is issued no later than 60 days after the MLTSS program application is submitted to CMS. Provides that MLTSS managed care plans shall be selected through a competitive request for proposals process in accordance with present law.

Proposed law authorizes the secretary of LDH to utilize an existing request for proposals to satisfy the provisions of proposed law if it complies with mandatory minimum qualifications.

Proposed law provides that the secretary of LDH shall select at least two, but no more than three, capitated managed care plans to implement the MLTSS program.

Proposed law provides that sources of funding for the implementation and administration of the MLTSS program may include any monies dedicated or otherwise provided in accordance with present law.

Proposed law stipulates that one year prior to the expiration of any contract entered into to implement the provisions of proposed law, the legislative auditor shall conduct and issue a fiscal and performance audit of the program, including an audit of the contractor and an audit of oversight of the contract by LDH. Authorizes the legislative auditor to have access to all information in the custody and control of the contractor needed to conduct the audit.

Proposed law requires the secretary of LDH to take all such actions as are necessary to ensure that the MLTSS program is fully implemented, and participant coverage by a managed long-term services and supports managed care plan or plans is available no later than July 1, 2022.

(Adds R.S. 46:460.101)