

2018 Regular Session

HOUSE BILL NO. 334

BY REPRESENTATIVES BACALA, AMEDEE, BERTHELOT, CARPENTER, EDMONDS, FOIL, GAROFALO, HOWARD, MACK, GREGORY MILLER, PEARSON, PUGH, PYLANT, RICHARD, SCHEXNAYDER, SEABAUGH, SIMON, AND THOMAS AND SENATOR APPEL

MEDICAID: Provides for implementation of a Medicaid managed long-term services and supports system

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:

1 (1) Managed long-term services and supports, referred to hereafter in this
2 Part as "MLTSS", refers to the delivery of Medicaid services for individuals
3 receiving home- and community-based services or institutional-based services and
4 individuals at highest risk of needing those services through capitated Medicaid
5 managed care programs that coordinate the provision of all physical, behavioral, and
6 long-term health services.

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

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

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

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

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

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

1 (a) Medicaid recipients who are elderly or who have adult-onset disabilities
2 and who meet the eligibility requirements for and are receiving long-term services
3 and supports through a Medicaid state plan or waiver program designed specifically
4 for the population, including but not limited to nursing facilities, home- and
5 community-based waivers, or state plan personal care programs.

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

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

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

14 (1) Demonstration of adequate planning and design.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (d) Establish a provider reimbursement rate floor at the Medicaid
29 fee-for-service rate in effect on July 1, 2018.

1 (e) Establish requirements for timely payments to providers and penalties for
2 failure to remit timely payments.

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

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

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

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

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

21 Section 2. The secretary of the Louisiana Department of Health shall submit to the
22 Centers for Medicare and Medicaid Services the application required by the provisions of
23 R.S. 46:460.101(B)(1), as enacted by Section 1 of this Act, no later than January 1, 2019.

24 Section 3. The secretary of the Louisiana Department of Health shall take all such
25 actions as are necessary to ensure that the Medicaid managed long-term services and
26 supports program provided for in R.S. 46:460.101, as enacted by Section 1 of this Act, is
27 fully implemented, and participant coverage by a managed long-term services and supports
28 managed care plan or plans is available, no later than July 1, 2020.

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 334 Original

2018 Regular Session

Bacala

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, 2019. 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 provisions 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, 2020.

(Adds R.S. 46:460.101)