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## DIGEST

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HB 390 Engrossed

2019 Regular Session

White

**Abstract:** Requires the La. Department of Health to develop Medicaid reimbursement rates paid to providers of disability services according to certain guidelines.

Proposed law provides that its purpose is to provide for a reliable legal framework to guide the La. Department of Health (LDH) in setting reimbursement rates for providers of disability services for persons with developmental, intellectual, adult-onset, or physical disabilities.

Proposed law requires LDH to design all processes and methodologies for setting Medicaid reimbursement rates for providers of disability services to ensure that service recipients have adequate access to services that satisfy all applicable standards and requirements of federal and state law for efficiency, economy, and quality of care.

Proposed law requires LDH to establish all new rates or changes to rates by a methodology that specifies and describes all factors, procedures, methods, and data used or considered in developing the respective rates, including but not limited to sources and methods of data collection, staff-to-recipient ratios, standards of reliability, formulas, calculations, assumptions, and variables. Stipulates that all data used or relied on in the methodology shall be reliable in accordance with standard principles of data reliability.

Proposed law requires LDH to ensure that its methodology results in rates that satisfy all of the following conditions:

- (1) The rates allow for all recipients to have a choice of quality providers for each service offered.
- (2) The rates allow all recipients to access services in a timely manner.
- (3) The rates can be incorporated consistently in fee-for-service Medicaid, Medicaid 1915(c) waivers, and Medicaid managed care programs.

Proposed law requires LDH to consider payment structures that ensure quality and value and improve adequacy, access, and sufficiency.

Proposed law provides that in connection with its design and implementation of the rate methodology required in proposed law, LDH shall develop a reporting system that disaggregates data by geography and demography and features specific information on access to services for population

subgroups including, without limitation, people with developmental, intellectual, adult-onset, or physical disabilities.

Proposed law requires all rates to be set based on reliable data of the actual or reasonably estimated costs of providing the service to be reimbursed. Provides that such costs shall include, as applicable to the rate, all employee wages, benefits, qualifications, and training costs; staff-to-recipient ratios; equipment and vehicle costs; and costs of operating, maintaining, and managing a residential setting including taxes, administrative costs, and overhead costs, but excluding unreimbursed room and board costs.

Proposed law requires that rates for similar services and supports shall be uniform in order to ensure that all providers receive the same rate for the same service for individuals with the same or similar needs, subject to reasonable adjustments for documented geographic variations in cost data.

Proposed law stipulates that implementation of any new Medicaid reimbursement methodology shall be contingent upon approval by the Centers for Medicare and Medicaid Services and the Joint Legislative Committee on the Budget. Prohibits LDH from implementing any new Medicaid reimbursement rate pursuant to proposed law unless the legislature makes a specific appropriation for such purpose.

Proposed law requires LDH to maintain reliable data in a form that permits ongoing monitoring of trending factors that may affect the sufficiency of rates such as trends in cost of living and other economic indexes, wage rates, and changes in regulatory and policy requirements affecting provider costs.

Proposed law authorizes LDH to require reasonable, periodic financial reports from providers as needed to ensure the availability of reliable cost data. Requires LDH to consult and collaborate with providers to develop reasonable financial reporting requirements.

Proposed law authorizes LDH to conduct annual reviews of all rates by service category and make a determination of the level of sufficiency of each rate based on a review of all pertinent data.

Proposed law requires LDH to provide a written report concerning disability service provider rates to the House Committee on Appropriations, the Senate Committee on Finance, and the legislative committees on health and welfare no later than 45 days prior to the convening of the 2020 R.S. Specifies content that the department shall include in the report.

(Adds R.S. 40:1250.1-1250.31)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Health and Welfare to the original bill:

1. Revise the short title of proposed law to provide that it shall be known as the "Disability

Services Medicaid Reimbursement Rate Act".

2. Delete legislative finding from proposed law indicating that, historically, instabilities in provider networks and systems of services in various states resulted in decades of litigation in federal courts challenging reimbursement rates set by state Medicaid agencies for providers of disability services.
3. Delete proposed law providing that its intent is to supplement the requirements of Medicaid law applicable to reimbursement rates for services provided to persons with disabilities.
4. Delete provisions relative to construction of proposed law.
5. Replace all instances of "age-related disability" with "adult-onset disability".
6. Replace all instances of "direct support professional" with "direct service worker".
7. Replace all instances of "personal planning" with "person-centered planning".
8. Specify that certain services and reimbursement rates referred to in proposed law are Medicaid services and reimbursement rates.
9. Delete proposed law requiring the La. Department of Health (LDH) to consider innovative rate and payment structures designed to promote improvements in quality, adequacy, access, and sufficiency, and develop measures to assess the effectiveness of such rate and payment structures.
10. Revise proposed law relative to establishment of rate methodologies to require that LDH establish all new rates or changes to rates by a methodology that specifies and describes all factors, procedures, methods, and data used or considered in developing the respective rates.
11. Delete proposed law stipulating that no cost data that is more than two years old shall be deemed reliable.
12. Delete proposed law requiring LDH to ensure that its rates for disability services satisfy the following conditions:
  - (a) The rates allow services to be provided in the most integrated setting for recipients, consistent with the holdings of the Supreme Court in *Olmstead v. L.C.*, 527 U.S. 581 (1999), and the Americans with Disabilities Act.
  - (b) The rates are sufficient to enlist a range of willing providers who are able to retain a qualified and stable workforce and take into account all other applicable workforce measures provided in proposed law.

- (c) The rates are subject to a review process that includes input from stakeholders and assesses the adequacy of access to services financed by the rates.
- 13. Stipulate that the LDH rates for disability services be developed such that they can be incorporated consistently in Medicaid 1915(c) waivers and Medicaid managed care programs.
- 14. Stipulate that implementation of any new Medicaid reimbursement methodology shall be contingent upon approval by the Centers for Medicare and Medicaid Services and the Joint Legislative Committee on the Budget.
- 15. Prohibit LDH from implementing any new Medicaid reimbursement rate pursuant to proposed law unless the legislature makes a specific appropriation for such purpose.
- 16. Delete requirement that LDH maintain reliable data in a form that permits ongoing monitoring of certain factors that may be indicators of the adequacy of access to and quality of services that are subject to reimbursement rates.
- 17. Delete a requirement that LDH conduct annual review of all rates by service category and instead authorize the department to conduct such reviews.
- 18. Delete requirements that LDH do the following:
  - (a) Rebase rates at least once every two years using the most recent audited cost report data available per the prescribed reimbursement methodology calculations for each covered service.
  - (b) Trend reimbursement rates forward annually for all years between rate rebasing using the appropriate health market basket inflation index.
- 19. Revise reporting requirements provided in proposed law to require that LDH provide a written report concerning disability service provider rates to the House Committee on Appropriations, the Senate Committee on Finance, and the legislative committees on health and welfare no later than 45 days prior to the convening of the 2020 R.S., and to specify the content of the report.
- 20. Make technical changes.