

2021 Regular Session

HOUSE BILL NO. 204

BY REPRESENTATIVE TURNER

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

EXCEPTIONAL PERSONS: Provides relative to the delivery of Medicaid-funded services for persons with disabilities

1 AN ACT

2 To enact Part II-B of Chapter 5-E of Title 40 of the Louisiana Revised Statutes of 1950, to
3 be comprised of R.S. 40:1250.31 through 1250.35, relative to the delivery of
4 Medicaid-funded services for persons with disabilities; to provide for definitions; to
5 provide for delivery of individual and family support services; to prohibit limitations
6 on direct service worker hours in the delivery of certain services; to provide with
7 respect to Medicaid payments for services of direct service workers; to provide for
8 delivery of certain Medicaid waiver services and long-term personal care services;
9 to authorize remote visitation of service recipients in certain programs with visitation
10 requirements; to require promulgation of administrative rules by the Louisiana
11 Department of Health; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. Part II-B of Chapter 5-E of Title 40 of the Louisiana Revised Statutes of
14 1950, comprised of R.S. 40:1250.31 through 1250.35, is hereby enacted to read as follows:

15 PART II-B. DELIVERY OF DISABILITY SERVICES

16 §1250.31. Definitions

17 As used in this Part, the following terms have the meaning ascribed to them
18 in this Section:

19 (1) "Department" means the Louisiana Department of Health.

1 (2) "Direct service worker" means an unlicensed person who provides
2 personal care or other services and support to persons with disabilities to enhance
3 those persons' well-being and which involves face-to-face direct contact with the
4 person. Functions performed by a direct service worker may include but are not
5 limited to assistance and training in activities of daily living, personal care services,
6 and job-related supports.

7 (3) "Home- and community-based services" has the meaning ascribed in R.S.
8 40:2120.2.

9 (4) "Individual and family support services" means Medicaid-funded direct
10 support and assistance services authorized by the department for a service recipient
11 during that person's waking or sleeping hours when natural supports for the person
12 are unavailable.

13 (5) "Long-term personal care services" and "LT-PCS" mean services that
14 provide assistance with distinct tasks associated with the performance of a service
15 recipient's activities of daily living. Such assistance may be either the actual
16 performance of a personal care task for the service recipient or supervision and
17 prompting so the individual performs the task by himself.

18 (6) "Service recipient" means a recipient of any Medicaid-funded service for
19 persons with developmental, intellectual, or physical disabilities.

20 (7) "Synchronous interaction" means communication through interactive
21 technology that enables a service recipient and a service provider or other person at
22 two locations separated by distance to interact via two-way video and audio
23 transmissions simultaneously.

24 §1250.32. Individual and family support services; limitation on daily direct service
25 worker hours prohibited in certain circumstances

26 In unforeseen situations when the scheduled direct service worker becomes
27 unavailable or the service recipient is not comfortable with multiple people in his
28 home, the department shall not limit the number of individual and family support

1 service hours that a direct service worker may work in a twenty-four-hour period as
2 long as the direct service worker is willing and able to work.

3 §1250.33. Waiver and LT-PCS programs delivering home- and community-based
4 services; payments to direct service workers; requirements

5 A.(1) No program which furnishes home- and community-based services
6 shall prohibit a family member from being a direct service worker for the service
7 recipient in order to qualify for payment through the waiver or LT-PCS program.

8 (2) A paid family caregiver who lives in the same setting as a service
9 recipient may provide no more than forty hours of Medicaid-funded services to the
10 recipient in a work week. After forty hours have been provided in a work week, the
11 caregiver may provide additional units of Medicaid-funded services in that work
12 week only in one or both of the following circumstances:

13 (a) When authorized by the service recipient's support coordinator.

14 (b) Due to an emergency.

15 (3) Service recipients and their direct service workers shall take all measures
16 necessary to achieve compliance with the forty-hour limit established in this
17 Subsection.

18 B. Each service recipient's hours shall be based on the recipient's current
19 approved plan of care. Any request for additional hours shall require the approval
20 of the designated department authority and shall include written relevant assessments
21 and documented justification.

22 C. In instances in which a direct service worker lives in the same setting as
23 the service recipient, the department shall require documentation of services
24 rendered and verification of such documentation.

25 §1250.34. Waiver and LT-PCS programs; visitation requirements; remote visitation
26 authorized

27 A. Each Medicaid waiver and LT-PCS program of the department which
28 requires quarterly visits to a service recipient's home shall, upon request of the

1 service recipient, allow for such visits to be conducted remotely through any means
2 of synchronous interaction, including virtual contact, approved by the department.

3 B. All of the following services provided in a home setting through any
4 Medicaid waiver or LT-PCS program of the department may be delivered by
5 synchronous interaction:

6 (1) Case management and support coordination.

7 (2) Monthly monitoring.

8 (3) Supervised independent living visits.

9 (4) Monitored in-home caregiving.

10 (5) In-home habilitation.

11 C. The department shall require a face-to-face visit after any two consecutive
12 synchronous interactions.

13 D. The department shall require documentation of services rendered and
14 verification of such documentation for services delivered through synchronous
15 interaction as authorized in this Section. The department shall share with a service
16 recipient's support coordination agency and provider agency documentation on
17 synchronous interactions.

18 §1250.35. Rulemaking

19 The department shall promulgate all such rules in accordance with the
20 Administrative Procedure Act as are necessary to implement the provisions of this
21 Part.

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 204 Engrossed

2021 Regular Session

Turner

Abstract: Provides relative to the delivery of Medicaid waiver services, long-term personal care services, and other Medicaid-funded services for persons with disabilities.

Proposed law provides that, for its purposes, the following definitions apply:

(1) "Direct service worker" means an unlicensed person who provides personal care or other services and support to persons with disabilities to enhance their well-being

- and which involves face-to-face direct contact with the person. Functions performed by a direct service worker may include but are not limited to assistance and training in activities of daily living, personal care services, and job-related supports.
- (2) "Individual and family support services" means Medicaid-funded direct support and assistance services authorized by the Louisiana Department of Health for a service recipient during that person's waking or sleeping hours when natural supports for the person are unavailable.
 - (3) "Long-term personal care services" and "LT-PCS" mean services that provide assistance with distinct tasks associated with the performance of a service recipient's activities of daily living. Such assistance may be either the actual performance of a personal care task for the service recipient or supervision and prompting so the individual performs the task by himself.
 - (4) "Service recipient" means a recipient of any Medicaid-funded service for persons with developmental, intellectual, or physical disabilities.
 - (5) "Synchronous interaction" means communication through interactive technology that enables a service recipient and a service provider or other person at two locations separated by distance to interact via two-way video and audio transmissions simultaneously.

Proposed law provides that in unforeseen situations when the scheduled direct service worker becomes unavailable or the service recipient is not comfortable with multiple people in his home, the La. Department of Health (LDH) shall not limit the number of individual and family support service hours that a direct service worker may work in a 24-hour period as long as that worker is willing and able to work.

Proposed law provides that no program which furnishes home- and community-based services shall prohibit a family member from being a direct service worker for the service recipient in order to qualify for payment through the waiver or LT-PCS program.

Proposed law stipulates that a paid family caregiver who lives in the same setting as a service recipient may provide no more than 40 hours of Medicaid-funded services to the recipient in a work week. Provides that after 40 hours have been provided in a work week, the caregiver may deliver additional units of Medicaid-funded services in that work week only in one or both of the following circumstances:

- (1) When authorized by the service recipient's support coordinator.
- (2) Due to an emergency.

Proposed law requires that service recipients and their direct service workers take all measures necessary to achieve compliance with the 40-hour limit established by proposed law.

Proposed law stipulates that each service recipient's hours shall be based on the recipient's current approved plan of care. Requires that any request for additional hours must have the approval of the designated LDH authority and shall include written relevant assessments and documented justification.

Proposed law provides that in instances in which a direct service worker lives in the same setting as the service recipient, LDH shall require documentation of services rendered and verification of such documentation.

Proposed law provides that each Medicaid waiver and LT-PCS program which requires quarterly visits to a service recipient's home shall, upon request of the service recipient,

allow for such visits to be conducted remotely through any means of synchronous interaction, including virtual contact, approved by LDH.

Proposed law authorizes delivery by synchronous interaction of all of the following services provided in a home setting through any Medicaid waiver or LT-PCS program:

- (1) Case management and support coordination.
- (2) Monthly monitoring.
- (3) Supervised independent living visits.
- (4) Monitored in-home caregiving.
- (5) In-home habilitation.

Proposed law provides that LDH shall require a face-to-face visit after any two consecutive synchronous interactions and shall require documentation of services rendered, and verification of such documentation, for services delivered through synchronous interaction as authorized in proposed law. Requires LDH to share with a service recipient's support coordination agency and provider agency documentation on synchronous interactions.

(Adds R.S. 40:1250.31-1250.35)

Summary of Amendments Adopted by House

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

1. Delete proposed law prohibiting LDH from limiting the number of individual and family support service hours that a direct service worker may work in a 24-hour period. Add in lieu thereof proposed law providing that in unforeseen situations when the scheduled direct service worker becomes unavailable or the service recipient is not comfortable with multiple people in his home, LDH shall not limit the number of individual and family support service hours that a direct service worker may work in a 24-hour period as long as that worker is willing and able to work.
2. Delete proposed law stipulating that no Medicaid waiver or LT-PCS program which furnishes home- and community-based services shall require that a direct service worker live apart from the service recipient in order to qualify for payment through the waiver or LT-PCS program. Add in lieu thereof proposed law providing all of the following:
 - a. No program which furnishes home- and community-based services shall prohibit a family member from being a direct service worker for the service recipient in order to qualify for payment through the waiver or LT-PCS program.
 - b. A paid family caregiver who lives in the same setting as a service recipient may provide no more than 40 hours of Medicaid-funded services to the recipient in a work week. After 40 hours have been provided in a work week, the caregiver may provide additional units of Medicaid-funded services in that work week only in one or both of the following circumstances:
 - (i) When authorized by the service recipient's support coordinator.

- (ii) Due to an emergency.
 - c. Service recipients and their direct service workers shall take all measures necessary to achieve compliance with the 40-hour limit established by proposed law.
- 3. Authorize the provision of certain support coordination services through synchronous interaction.
- 4. Require LDH to share with a service recipient's support coordination agency and provider agency documentation on synchronous interactions.