

Regular Session, 2014

HOUSE BILL NO. 635

BY REPRESENTATIVE BROADWATER

HEALTH/HOME CARE: Provides relative to fiscal/employer agents for direct service workers

1 AN ACT

2 To enact Chapter LXIX-A of Title 40 of the Louisiana Revised Statutes of 1950, to be
3 comprised of R.S. 40:1300.325 through 1300.327, relative to direct service workers;
4 to provide for the "Residential Options Waiver Fiscal Management Act"; to provide
5 for definitions; to authorize a Medicaid enrollee who hires a direct service worker
6 to choose a fiscal/employer agent; to provide for a fiscal/employer agent rotation list;
7 to provide rulemaking authority; to require an opt-in period; to prohibit the
8 Department of Health and Hospitals from recommending a fiscal/employer agent;
9 to require reimbursement rates to be equal for all fiscal/employer agents; and to
10 provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. Chapter LXIX-A of Title 40 of the Louisiana Revised Statutes of 1950,
13 comprised of R.S. 40:1300.325 through 1300.327, is hereby enacted to read as follows:

14 CHAPTER LXIX-A. RESIDENTIAL OPTIONS WAIVER

15 FISCAL MANAGEMENT ACT

16 §1300.325. Short title

17 This Chapter shall be known and may be cited as the "Residential Options
18 Waiver Fiscal Management Act".

1 §1300.326. Definitions

2 When used in this Chapter, the following words and phrases have the
3 meanings ascribed to them in this Section, unless the context clearly indicates a
4 different meaning:

5 (1) "Department" means the Department of Health and Hospitals.

6 (2) "Direct service worker" means an unlicensed person who provides
7 personal care or other services and support to persons with disabilities or to the
8 elderly to enhance their well-being and which involves face-to-face direct contact
9 with the person. Functions performed may include but are not limited to assistance
10 and training in activities of daily living, personal care services, and job-related
11 supports.

12 (3) "Fiscal/employer agent" means a business that performs the Medicaid
13 enrollee's employer-related payroll functions.

14 (4) "Region" means any of the delineated set of administrative regions of the
15 Department of Health and Hospitals.

16 (5) "Self-direction option" means a service delivery option which allows a
17 Medicaid enrollee to become the employer of the direct service worker chosen by the
18 Medicaid enrollee for hire to provide supports.

19 §1300.327. Selection of fiscal/employer agent; rotation list; minimum requirements

20 A. When a direct service worker is hired as a home-based attendant by a
21 Medicaid enrollee pursuant to the self-direction option of the Residential Options
22 Waiver program or its successor, the Medicaid enrollee shall select a fiscal/employer
23 agent from a list of agents registered with the department to provide fiscal/employer
24 agent services within the same region in which the Medicaid enrollee is located. If
25 the Medicaid enrollee is unable to or chooses not to select a particular
26 fiscal/employer agent, the next available registered company on the department's
27 rotation list of approved fiscal/employer agents for the region in which the Medicaid
28 enrollee is located shall be assigned to act as a fiscal/employer agent for the
29 Medicaid enrollee.

1 B. The department shall establish and maintain a rotation list of approved
2 fiscal/employer agents for each region. The department shall promulgate minimum
3 standards, rules, and procedures, in accordance with the Administrative Procedure
4 Act, for participation in a rotation list.

5 (2) The rules established by the department shall contain, at a minimum, the
6 requirement that a fiscal/employer agent located within Louisiana shall register only
7 for the region in which the fiscal/employer agent is located. A fiscal/employer agent
8 located outside of Louisiana shall choose one region in which the fiscal/employer
9 agent will provide services upon registering with the department. If a
10 fiscal/employer agent located outside of Louisiana does not choose a region at the
11 time of registration, the department shall assign the fiscal/employer agent a region
12 after considering the service needs of each region.

13 (3) The rules shall also include an annual opt-in period of not less than thirty
14 days each year, during which period any company may apply for approval by the
15 department as a fiscal/employer agent and placement on the rotation list. During the
16 annual opt-in period, the department shall review the qualifications of any
17 fiscal/employer agent previously approved by the department and placed on the
18 department's rotation list.

19 C. The department shall not recommend a specific fiscal/employer agent to
20 any Medicaid enrollee. Each Medicaid enrollee shall be referred to the department
21 rotation list. When the Medicaid enrollee exercises an option to select a
22 fiscal/employer agent, the selection shall be duly recorded by the department.

23 D. The reimbursement rate paid by the department to a fiscal/employer agent
24 shall be the same for each fiscal/employer agent registered with the department,
25 regardless of whether the fiscal/employer agent is located within or outside of
26 Louisiana.

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)]

Broadwater

HB No. 635

Abstract: Creates the "Residential Options Waiver Fiscal Management Act" to authorize a Medicaid enrollee who hires a direct service worker as a home-based attendant to choose a fiscal/employer agent.

Proposed law may be cited as the "Residential Options Waiver Fiscal Management Act".

Proposed law defines "department" as the Dept. of Health and Hospitals (DHH).

Proposed law defines "direct service worker" as an unlicensed person who provides personal care or other services and support to persons with disabilities or to the elderly to enhance their well-being and which involves face-to-face direct contact with the person. Functions performed may include but are not limited to assistance and training in activities of daily living, personal care services, and job-related supports.

Proposed law defines "fiscal/employer agent" as a business that performs the Medicaid enrollee's employer-related payroll functions.

Proposed law defines "region" as any of the delineated set of administrative regions of DHH.

Proposed law defines "self-direction option" as a service delivery option which allows a Medicaid enrollee to become the employer of the direct service worker chosen by the Medicaid enrollee for hire to provide supports.

Proposed law requires a Medicaid enrollee, when hiring a home-based attendant pursuant to the self-direction option of the Residential Options Waiver program or its successor, to select a fiscal/employer agent from a list of agents registered with DHH to provide fiscal/employer agent services within the same region in which the Medicaid enrollee is located.

Proposed law requires DHH, if the Medicaid enrollee is unable to or chooses not to select a particular fiscal/employer agent, to assign the next available registered company on DHH's rotation list of approved fiscal/employer agents for the region in which the Medicaid enrollee is located to act as a fiscal/employer agent for the direct service worker.

Proposed law requires DHH to establish and maintain a rotation list of approved fiscal/employer agents for each region. Proposed law further requires DHH to establish minimum standards, rules, and procedures for participation in a rotation list.

Proposed law requires a fiscal/employer agent located within La. to register only for the region in which the fiscal/employer agent is located.

Proposed law requires a fiscal/employer agent located outside of La. to choose one region in which the fiscal/employer agent will provide services upon registering with DHH. If a fiscal/employer agent located outside of La. does not choose a region at the time of registration, proposed law requires DHH to assign the fiscal/employer agent a region after considering the service needs of each region.

Proposed law requires DHH to establish an annual opt-in period of not less than 30 days each year, during which period any company may apply for approval by the department as

a fiscal/employer agent and placement on the rotation list. Proposed law further requires DHH, during the annual opt-in period, to review the qualifications of any fiscal/employer agent previously approved by DHH and placed on the department's rotation list.

Proposed law prohibits DHH from recommending a specific fiscal/employer agent to a Medicaid enrollee and requires each Medicaid enrollee to be referred to DHH's rotation list.

Proposed law requires DHH to duly record the selection of a Medicaid enrollee who exercises an option to select a fiscal/employer agent.

Proposed law requires DHH to pay the same reimbursement rate to each fiscal/employer agent, regardless of whether the fiscal/employer agent is located within or outside of La.

(Adds R.S. 40:1300.325-1300.327)