

2018 Regular Session

SENATE BILL NO. 357

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

MEDICAID. Provides relative to Medicaid managed care for individuals receiving long-term services and supports. (8/1/18)

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. 46:460.80, relative to Medicaid managed care for individuals

4 receiving long-term services and supports; to provide for legislative findings and

5 intent; to provide for submission of an application to the Centers for Medicare and

6 Medicaid Services; to provide for minimum application criteria; to provide for

7 requests for proposal; to provide for sources of funding; to provide for audits; to

8 provide for rulemaking; to provide for time lines; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Part XIV of Chapter 3 of Title 46 of the Louisiana Revised Statutes of

11 1950, comprised of R.S. 46:460.80, is hereby enacted to read as follows:

12 **PART XIV. MEDICAID MANAGED LONG-TERM**

13 **SERVICES AND SUPPORTS ("MLTSS")**

14 **§460.80. Medicaid managed long-term services and supports; findings;**

15 **minimum requirements**

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

17 **(1) Managed long-term services and supports ("MLTSS") refers to the**

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

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

10 (3) Seniors represent the largest populations receiving Medicaid  
11 long-term care services and states must implement programs that have an  
12 emphasis on choice, consumer-driven care, and services that actively promote  
13 community-based alternatives.

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

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

24 B.(1) The secretary of the Louisiana Department of Health shall develop  
25 and implement a Louisiana MLTSS program and submit an application, based  
26 on the most appropriate managed care authority, to CMS no later than January  
27 1, 2019. The secretary may use existing materials, including waiver drafts and  
28 stakeholder input, providing they comply with the requirements of this Section.

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

1           populations:

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

8           (b) Recipients who are receiving both Medicaid and Medicare benefits,  
9           referred to as "dual eligibles", and are not otherwise receiving long-term  
10           services and supports.

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

13           C. In developing the MLTSS program application, the secretary shall  
14           ensure that it includes and expounds upon the following elements that have been  
15           set forth by CMS in guidance to the states as minimum components that will  
16           increase the likelihood of a high quality MLTSS program:

17           (1) Demonstration of adequate planning and design.

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

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

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

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

29           (6) Person-centered processes that include needs assessments, service

1 planning, and service coordination policies and protocols.

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

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

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

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

12 D.(1) Requests for proposal shall be issued no later than sixty days after  
13 the application submitted to CMS pursuant to Paragraph (B)(1) of this Section.  
14 MLTSS managed care plans shall be selected through a competitive requests for  
15 proposal process in accordance with the Louisiana Procurement Code, R.S.  
16 39:1551 et seq.

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

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

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

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

29 (d) Establish a provider reimbursement rate floor at the Medicaid

1 fee-for-service rate in effect on July 1, 2018.

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

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

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

10 E. The MLTSS program provided for in this Section shall be  
11 implemented, with participant coverage by a Medicaid MLTSS managed care  
12 plan, no later than July 1, 2020.

13 F. Sources of funding for the implementation and administration of the  
14 MLTSS program may include monies dedicated in accordance with R.S.  
15 46:2623, R.S. 22:842(C), and any other monies allowed by law.

16 G. One year prior to the expiration of any contract entered into to  
17 implement the provisions of this Section, the legislative auditor shall conduct  
18 and issue a fiscal and performance audit of the program, including an audit of  
19 the contractor and an audit of the department's oversight of the contract. The  
20 legislative auditor shall have access to all information in the custody and control  
21 of the contractor needed to conduct the audit.

22 H. The secretary shall promulgate rules and regulations necessary to  
23 implement the provision of the Section in accordance with the Administrative  
24 Procedure Act, R.S. 49:950 et seq.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Christine Arbo Peck.

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Proposed law provides legislative intent to establish a MLTSS, Medicaid managed long-term care program, for seniors who receive or are at high risk for receiving long-term services in the community or in an institution. Proposed law establishes legislative intent to improve

access and provide choices for seniors receiving long-term services.

Proposed law provides that the MLTSS program applies to the elderly and individuals with adult-onset disabilities and dual-eligibles who receive Medicaid and Medicare and are not receiving long-term care. Proposed law does not apply to Medicaid recipients eligible and receiving services due to an intellectual or developmental disability.

Proposed law requires the secretary of LDH to develop and submit an application to CMS to implement the MLTSS program no later than January 1, 2019. Proposed law requires the application to include and expound upon certain enumerated elements set forth by CMS to achieve the greatest opportunity for community placement and engagement.

Proposed law requires LDH to issue a requests for proposal within 60 days of submitting the MLTSS application to CMS. Proposed law requires the requests for proposal to have minimum qualifications, including demonstrated success in another state, provision of all Medicaid covered services, appointment of an ombudsman, establishment of a rate floor, timely provider payments, and continued eligibility determinations by LDH. Proposed law requires the secretary to select at least two, but no more than three contractors to manage the MLTSS program.

Proposed law requires the MLTSS program to be implemented no later than July 1, 2020.

Proposed law provides that sources of funding come from monies dedicated though the Medical Assistance Trust Fund, the Medicaid managed care premium tax, or other monies allowed by law.

Proposed law provides for fiscal and programmatic audits by the legislative auditor at least one year prior to the expiration of any MLTSS contract. Proposed law provides for rulemaking.

Effective August 1, 2018.

(Adds R.S. 46:460.80)