John Bel Edwards
GOVERNOR

Dr. Courtney N. Phillips
SECRETARY

State of Louisiana

Louisiana Department of Health
Bureau of Health Services Financing

MEMORANDUM

TO: LOUISIANA INTERMEDIATE CARE FACILITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES (ICF/DD)

FROM: RUTH JOHNSON, MEDICAID EXECUTIVE DIRECTOR
LDH, Bureau of Health Services Financing

JULIE FOSTER-HAGAN, ASSISTANT SECRETARY
LDH, Office for Citizens with Developmental Disabilities

CECILE CASTELLO, Deputy Assistant Secretary
LDH, Health Standards Section

RE: ICF/DD ISSUES
A. LICENSE - TEMPORARY RELOCATION AND SHELTERING SITES; FACILITY NEED REVIEW
B. MEDICAID VENDOR PAYMENTS

DATE: SEPTEMBER 14, 2020

Governor Edwards declared a state of emergency in Louisiana, effective Friday, August 21, 2020, to Sunday, September 20, 2020, due to Tropical Storm Marco and Tropical Storm Laura, via Proclamation Number 108 JBE 2020. Tropical Strom Marco made landfall near New Orleans, Louisiana on or about August 24, 2020. Tropical Storm Laura strengthened into a Category 1 hurricane on August 25, 2020 and made landfall in southwest Louisiana a Category 4 hurricane on August 27, 2020. Further, Governor Edwards declared another state of emergency in Louisiana, effective September 12, 2020, due to Tropical Storm (now Hurricane) Sally, via Proclamation Number 120 JBE 2020. Considering the substantial impacts

and effects of multiple tropical storms/hurricanes on the residents of Louisiana, and the need to coordinate care, services, treatment, and placement for evacuees, Louisiana will allow for the following current relief to ICF/DDs[1]:

A. LICENSED ICF/DDs:

A-1. ICF/DDs that temporarily relocate in Louisiana:

Generally, a license issued to an ICF/DD is valid for one geographical location; further, the service area for an ICF/DD's Medicaid Facility Need Review approvals is limited to a multi-parish region. To ensure the health and safety of clients and to ensure coordination and continuation of services to clients in Louisiana, the Louisiana Department of Health will allow a licensed ICF/DD to temporarily relocate to another approved licensed location within Louisiana, for a period not to exceed one year, if all of the following conditions are met:

(a) The licensed ICF/DD has evacuated or temporarily relocated to a location outside of its licensed region due to Tropical Storm Marco, Hurricane Laura, and/or Hurricane Sally;

(b) The licensed location of the ICF/DD has been severely impacted/damaged or destroyed due to Tropical Storm Marco, Hurricane Laura and/or Hurricane Sally, or is otherwise uninhabitable due to Tropical Storm Marco, Hurricane Laura and/or Hurricane Sally;

(c) The ICF/DD intends to return to the original service area once all repairs/renovations and/or replacements have been completed;

(d) The ICF/DD identifies another location that can be licensed by LDH Health Standards as an ICF/DD and submits notice and an application for temporary license to LDH Health Standards by September 18, 2020 (note: this date may be extended by LDH Health Standards for good cause shown);

(e) The ICF/DD allows all clients in that ICF/DD to relocate to the temporary licensed location, unless the client chooses another provider or unless medically contra-indicated;

(f) The ICF/DD is responsible for ensuring that all essential care and services are provided to each recipient, including having sufficient staff at the temporary licensed location; and

[1] These facilities are also known as "intermediate care facilities for persons with intellectual disabilities".

(g) The ICF/DD does not interfere with a client's right to choose a provider of his/her choice (that is, if a client wants to elect a new ICF/DD, then the ICF/DD will facilitate that selection).

A-2. Instructions for an ICF/DD that temporarily relocates out-of-state:

(a) If, due to the declared emergency related to Tropical Storm Marco, Hurricane Laura and/or Hurricane Sally, an ICF/DD temporarily relocates to an out-of-state sheltering location, the ICF/DD must contact that state's licensing/certification agency to obtain any necessary licensing, certification, and/or approvals to provide services in that state.

(b) Subject to the ICF/DD obtaining any necessary out-of-state approval(s) to remain at the sheltering site, an ICF/DD that continues to provide services to Louisiana Medicaid recipients at the out-of-state sheltering location will be allowed to utilize its Louisiana Medicaid FNR approvals and bill Louisiana Medicaid for services provided to ICF/DD clients, as provided in Section B below. A copy of any out-of-state approvals shall be provided to the Department upon request.

A-3 Instructions for an ICF/DD that discharges and/or transfers its clients to another licensed ICF/DD or that will not reopen immediately due to storm damage:

(a) If an ICF/DD discharges and/or transfers its clients to another licensed ICF/DD and/or will not reopen immediately due to storm damage or repairs, the ICF/DD must contact LDH Health Standards to temporarily de-activate its Louisiana license, for a period not to exceed one year, pursuant to the ICF/DD Licensing Rule, La. Admin Code, Title 48.I, Subpart 3, Chapter 85, Subchapter G, Section 8605.

(b) Such an ICF/DD must comply with the provisions of Section 8605 to de-activate its Louisiana license.

(c) Such an ICF/DD must comply with the provisions of Section 8605 to re-activate such license.

A-4. Instructions for licensed ICF/DDs that allow evacuating ICF/DDs to utilize space/buildings.

(a) In a declared disaster or emergency, a licensed ICF/DD (*i.e.*, the "host" facility) may allow an evacuating ICF/DD to utilize excess

or under-underutilized space and/or buildings on its licensed campus as a temporary sheltering site; please see provisions for Medicaid payments for such arrangements in Section B below.

(b) If the evacuating facility temporarily relocates its licensed ICF/DD (as authorized in Section A-1 of this memo) to the host facility's campus, then the host facility must temporarily inactivate licensed beds and corresponding Medicaid Facility Need Review Approvals associated with the space utilized by the evacuating facility. This temporary inactivation would be for a period not to exceed one year. Upon the evacuating facility relocating to its original service location, the host facility will then notify LDH Health Standards to re-active its licensed beds and Medicaid Facility Need Review Approvals. The ICF/DD Licensing Rule and Facility need Review Rule will be updated to reflect these provisions.

B. MEDICAID VENDOR PAYMENTS

Note: This applies to clients that have Louisiana Medicaid coverage.

B-1. When an ICF/DD client is evacuated to a temporary shelter site (an unlicensed shelter site or a licensed ICF/DD facility) for less than 24 hours, the Medicaid vendor payment to the evacuating facility will not be interrupted.

B-2. When an ICF/DD client is evacuated to a temporary shelter site (an unlicensed sheltering site or a licensed ICF/DD facility) for greater than 24 hours, the evacuating ICF/DD may submit claims for Medicaid vendor payment for the services provided at the host facility for a maximum of five days, provided that the evacuating ICF/DD provides sufficient staff and resources to ensure the delivery of essential care and services to the client at the temporary shelter site.

B-3. When an ICF/DD client is evacuated to a temporary shelter site which is an unlicensed sheltering site for greater than 5 days, the evacuating ICF/DD may submit the claim for Medicaid vendor payment for up to an additional 15 days, provided that:

(a) The evacuating ICF/DD has received an extension to stay at the unlicensed sheltering site; and

(b) The evacuating ICF/DD provides sufficient staff and resources to ensure the delivery of essential care and services to the client and to ensure the needs of the client are met.

B-4. When an ICF/DD client is evacuated to a temporary shelter site which is an unlicensed shelter site for greater than 20 days (the original 5 days, plus the 15-day extension noted in Paragraph B-3), the Department may allow a hardship exception, whereby the evacuating ICF/DD may submit the claim for Medicaid vendor payment for up to an additional 20 days, provided that:

(a) The evacuating ICF/DD has received any necessary extension to stay at the unlicensed shelter site;

(b) The evacuating ICF/DD provides sufficient staff and resources to ensure the delivery of essential care and services to the client and to ensure the needs of the client are met;

(c) The evacuating ICF/DD has not received citations of deficient practice at the unlicensed sheltering site;

(d) The evacuating ICF/DD continues to cooperate with the Department on monitoring visits or surveys at the unlicensed sheltering site; and

(e) The hardship extension request is based on information that the evacuating ICF/DD clients will return to the ICF/DD's licensed location or be placed in alternate licensed ICF/DD beds within the hardship extension period.

Please note: For Storms Marco/Laura evacuations, all ICF/DD clients shall be in a licensed bed no later than 9/30/2020; Medicaid will not reimburse claims for such ICF/DD clients in non-licensed beds after 9/30/2020.

B-5. When an ICF/DD client is evacuated to a temporary shelter site which is a licensed ICF/DD for greater than 5 days, the evacuating ICF/DD may submit the claim for Medicaid vendor payment for an additional period, not to exceed 55 days, provided that:

(a) The host/receiving ICF/DD has sufficient licensed and certified bed capacity for the resident or the host/receiving ICF/DD has received Departmental and/or Centers for Medicare and Medicaid Services (CMS) approval to exceed the licensed and certified bed capacity for a specified period; and

(b) The evacuating ICF/DD provides sufficient staff and resources to ensure the delivery of essential care and services to the client and to ensure the needs of the client are met.

B-6. If an ICF/DD client is evacuated to a temporary shelter site that is a licensed ICF/DD, the receiving/host ICF/DD may submit claims for Medicaid vendor payment as follows:

(a) Beginning Day 2 and continuing during the "sheltering period" and any extension period, if the evacuating ICF/DD does not provide sufficient staff and resources to ensure the delivery of essential care and services to the resident and to ensure the needs of the residents are met; or

(b) Upon admission of the evacuated clients to the host/receiving ICF/DD; or

(c) Upon obtaining approval of a temporary hardship exception from the Department, if the evacuating ICF/DD is not submitting claims for Medicaid vendor payment.

B-7. Only one ICF/DD may submit claims and be reimbursed by the Medicaid Program for each Medicaid client for the same date of service. If two ICF/DDs submit claims for the same individual on the same date of service, the duplicate claims will be subject to recoupment.

B-8. A licensed ICF/DD may not submit claims for Medicaid vendor payment for non-admitted clients beyond the expiration of its extension to exceed licensed (and/or certified) bed capacity or expiration of its temporary hardship exception.

CONTACT INFORMATION:

If additional information is required regarding licensing issues, please contact the LDH Health Standards Section at (225) 342-4997.

If additional information is required regarding Medicaid vendor payments, please contact the LDH, Louisiana Medicaid, Provider Relations Department at 1-800-473-2783.

ICF/DD providers that evacuated outside of Louisiana may submit a copy of its temporary/out-of-state approval to LDH Medicaid at Katherine.stewart@la.gov.