

TECHNICAL ADVISORY

TA 336

September 5, 2018

SUBJECT: Insurance Requirements for Home & Community Based Service Providers

BACKGROUND: In Louisiana, administrative agencies like the Louisiana Department of Health and Hospitals (LA DHH) have administrative authority via the rulemaking process. Those rules/regulations are published in the Louisiana Administrative Code (LAC). Sections of Title 48 of the Louisiana Administrative Code (LAC) establish insurance requirements for "Home and Community Based Service Providers" (HCBSP).

MAIN POINTS: The LA DHH established licensing standards for HCBSP, along with information on who is required to be licensed as a HCBSP in Chapter 50 of Title 48 of the LAC. Notably, Section 5003 defines a *Home and Community-Based Service Provider* as "an agency, institution, society, corporation, person(s) or any other group licensed by the department to provide one or more home and community-based services as defined in R.S. 40:2120.2." Furthermore, other sections in Chapter 50 of Title 48 of the LAC also provide additional requirements for those providers who are deemed to be HCBSP providers. For example, Section 5001 in Title 48, Part 1 of the LAC lists those persons that "shall be licensed under the HCBSP license." Information about or determinations of who is a HCBSP would ultimately be determined by the LA DHH. Title 48 of the LAC is available online at <https://www.doa.la.gov/Pages/osr/LAC-48.aspx>.

Applicants for the HCBSP provider license must submit and receive approval of their application prior to providing services and their application packet "shall include" proof of workers compensation insurance identifying the LDH Health Standards Section as a certificate holder with the 30-day cancellation/change statement. See, Section 5007, B(6)(c). Similarly, such proof must be provided before the HCBSP provider license is transferred to another owner (Section 5014) and at the time of the annual renewal of the HCBSP provider license (Section 5015).

Thus, any HCBSP applicant would have to request those provisions be included on their workers compensation, general liability or professional liability policies that are issued or that will be issued to use as the requisite proof in their application packet. However, from a practical standpoint, insurance agents

should be aware of these insurance requirements and help advise their HCBS providers of these insurance requirements.

LAC Title 48. Chapter 50. Section 5007. B. 6. b & c. requires:

b. general and professional liability insurance in the amount of at least \$300,000 that is current and in effect at the time of license application; and
c. worker's compensation insurance that is current and in effect at the time of license application;

NOTE: The LDH Health Standards Section shall specifically be identified as the certificate holder on these policies pursuant to § 5007.B.6.a-c and any certificates of insurance issued as proof of insurance by the insurer or producer (agent). The policy shall have a cancellation/change statement requiring notification of the certificate holder 30 days prior to any cancellation or change of coverage.

Agents writing HCBS accounts need to arrange with the insurer to provide policy provisions for a 30-day notice of cancellation on the workers compensation, general liability or professional liability policies for Home and Community Based Service Providers with notice to Louisiana Department of Health – Health Standards Section as a certificate holder. Please note that 30-day notice to LA DHH will interfere with the general statutory 10-day notice for cancellation due to nonpayment.

**Louisiana Department of Health
Health Standards Section
P.O. Box 3767
Baton Rouge, LA 70821**

Detailed information on insurance requirements for Home and Community Based Service Providers can be found at the following links:

[**Definitions of "Home and Community Based Service Providers"**](#)

[**Louisiana Administrative Code Title 48 Chapter 50 Part 5007
Initial Licensure Application Process
Insurance Requirements**](#)

[**NCCI Circular LA-2018-01**](#)

**NECESSARY
ACTION:**

Review this Technical Advisory with all agency staff responsible for insuring Home and Community Based Service Providers.

Insure that any Home and Community Based Service Providers that you insure are aware of the requirements set out in Title 48, Chapter 50 of the Louisiana Administrative Code.

Insure that policies written for any Home and Community Based Service Providers that you insure meet the requirements set out in Title 48, Chapter 50 of the Louisiana Administrative Code, including the 30-Day Notice of Cancellation with certificate of insurance and notice to the Louisiana Department of Health & Hospitals - Health Standards Section.

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