

Advocacy Center
Quarterly Report to the DD Council
(December 17, 2013)

Update/progress on agency initiatives

1. 2013-2014 Agency Plan

The Advocacy Center will continue to focus on community integration, rights protection, employment, education and voting rights in Fiscal Year 2014. The only major change to our work is a return to providing legal assistance on special education issues across the state, rather than in targeted parishes. Thank you to everyone who shared thoughts and ideas during our planning process.

2. AC Files Employment Discrimination Lawsuit Against Wal-Mart

On November 22, 2013, the Advocacy Center filed a lawsuit in federal district court alleging that Wal-Mart Stores, Inc. violated the Americans with Disabilities Act (ADA) by discriminating against an employee of its Galliano, LA store on the basis of his disability.

Michael Theriot, 33, of Larose, LA, has cognitive disabilities and speech impairment. Mr. Theriot was employed by Wal-Mart from 2000 until 2011. As a disability accommodation, Wal-Mart had agreed to allow Mr. Theriot to use assistance from a job coach when speaking with store management regarding personnel issues.

On May 20, 2011, Mr. Theriot was given conflicting job assignments from his direct supervisor and another store manager. When he protested the conflicting assignments, he was brought into a meeting with the store's assistant manager. He requested the presence of his direct supervisor, but was refused. Mr. Theriot attempted to explain himself, but the assistant manager told him she could not understand him, presumably due to his speech impairment. She instructed Mr. Theriot to "talk right." When he didn't comply, she terminated Mr. Theriot.

Long before May 20, 2011, Wal-Mart had agreed to provide Mr. Theriot accommodation in accordance with the ADA, allowing him to have a job coach present during such meetings because conversations are difficult for him. Wal-Mart failed to follow its own policies. Though it later offered to let Mr. Theriot return to his job, he has been left feeling belittled, confused, and too scared to return to work.

Stay tuned for updates.

3. Open Enrollment for Bayou Health Recipients

Each year, Bayou Health participants can change plans during open enrollment. Some individuals can also opt out and return to legacy Medicaid during this time. For people living near New Orleans, open enrollment is from December 1st to January 30th. For people near Baton Rouge, open enrollment is from February 1st to March

27th. For people near Lafayette and in North LA, open enrollment is from April 1st to May 30th. See the attached flyers for more information on open enrollment and opting out of Bayou Health.

4. Access to Applied Behavioral Analysis (ABA) for Children on Medicaid

The Advocacy Center continues to monitor access to Applied Behavior Analysis for children in the Chisholm class (children ages 3-21 and on the NOW waiting list) and in Early Steps. Provider enrollment has been very slow so far and we hope this will improve in 2014.

The AC is asking class members or the caretakers of class members who need ABA services, to please call Jeanne Abadie at 800-960-7705, ext. 130, or email her with the name of the caller, the name of the child, the caller's phone number and address, and the child's date of birth.

ABA therapy is also supposed to be available for children under the age of 3, through Early Steps. If anyone has problems getting these services, please call Jeanne Abadie at 800-960-7705, ext. 130.

5. Upcoming Elections

Residents of Orleans parish will vote on Saturday, February 2nd with early voting from January 18-25th. Voters will choose the Mayor, City Council members and representatives in a number of other races. The run-off, if needed, will be held on March 15th, with early voting from March 1-8th.

Many other parts of the state will vote in local races on April 5th, with early voting from March 22-29th.

Contact the Advocacy Center if you encounter problems or have questions about voting.

6. Update - Changes in Eligibility for the Medicaid Purchase Plan

In October, the Louisiana Department of Health & Hospitals (DHH) began a review to determine who might be negatively impacted by these changes. One group that will feel a negative impact is comprised of approximately 60 individuals who use personal care services. Personal care services are not available through Medicare or the private insurance market. Thus, folks who need these services and can no longer qualify for MPP, stand to lose these very important services.

To mitigate this negative impact, DHH is considering two options: (1) enroll these individuals in the State Personal Assistance Services (SPAS) program or (2) make sure these individuals get a Community Choice Waiver.

However, the SPAS program has very limited funds, so only a few people will be able to be served by SPAS. As for the other option: To qualify for a Community

Choice Waiver, an individual must be approved for the maximum amount of services allowable under the Long Term Personal Care Services Program, and require institutional placement. Again, this may constitute too great a hurdle for many folks affected by the changes.

The Advocacy Center has proposed a third option: That the State disregard the cost of needed long term personal care services when calculating income for eligibility purposes. However, this option also poses problems.

The Advocacy Center has been in contact with three MPP participants who are losing their long-term personal care services. At least partially as a result of advocacy by the Advocacy Center and a coalition of agencies, including the DD Council, one will receive services through the State Personal Assistance program, one received an expedited Community Choices waiver slot and one will receive Individual and Family Supports. We are hopeful that the remaining participants losing MPP and long term personal care services are able to access alternatives.

If you know of anyone who is losing long-term personal care services and has not received information about an alternative, please contact the Advocacy Center.

7. Update - State Employment for People with Disabilities

The Advocacy Center met with staff of the Department of State Civil Service to discuss increasing job opportunities for people with disabilities in state government. Civil Service agreed to add a disability portal to the state civil service website (<http://www.civilservice.louisiana.gov/>), which is expected to be completed in early 2014. AC staff also addressed the state Human Resources directors about employment of people with disabilities in December, in another effort to heighten awareness of the employment needs and potential of people with disabilities. We welcome this partnership with the State Civil Service Office and hope to partner with Work Pays and the DD Council to increase awareness of state jobs among jobseekers with disabilities.

The Advocacy Center continues to advocate for an Executive Order to increase the number of people with disabilities employed in state government. We are hoping to work with Louisiana Rehabilitation Services and hope that members of the DD Council will continue to support these efforts.

8. Supported Independent Living Program Update

The Supported Independent Living Advocacy Project (SILAP), funded by the DD Council, serves people with developmental disabilities who live in the community with supports in Orleans, Jefferson, Plaquemines and St. Bernard parishes. The project has or is working with 31 people whose issues include: (1) freedom of choice among support agencies; (2) health/safety issues; (3) quality of support services; (4) lack of integration into the community; (5) need for money management support; (6) meaningful work, school or other appropriate daytime activities; (7) skills development. In addition to assisting people in these areas,

SILAP is working with them to develop self-advocacy techniques as well as advocating for service delivery improvements for those receiving waiver services. The Advocacy Center is now working to ensure that this program continues when DDC support is no longer available. Meetings with the Secretary of DHH and the Division of Administration indicate wide support for the continuation of the program.

9. Access Louisiana

The Advocacy will launch an interactive website where people from all over Louisiana will be able to enter data about the accessibility status of places of public accommodation. AC launched an end-of-year campaign to raise funds for this site. Contributions are welcome and can be made to the Advocacy Center. We hope to raise \$5,000 to accomplish this goal.

10. Recent Successes

Release from Unjust Imprisonment

Mr. G, a 33 year old man with intellectual disabilities was on probation and doing well at his group home. After some minor behavior issues at the home, his probation officer rescinded probation and put him in jail, despite the fact that the group home was required to provide behavior support to Mr. G. For two weeks, Mr. G remained in prison without his medication. Mr. G contacted the Advocacy Center for help. The AC attorney took action, discovering that although Mr. G did have an extensive criminal history, he was not well represented by counsel throughout the years. AC's attorney not only got the Mr. G out of jail but had charges from 2004 dismissed.

Return to School

RL is a 19-year-old with several disabilities who resides in a community group home. The school he attended regularly suspended him due to inappropriate behaviors related to his disability, a clear violation of his right to a Free and Appropriate Public Education. The staff from his community home contacted the Advocacy Center for assistance through the community living ombudsman (CLOP). A C staff reviewed RL's records, attended IEP meetings, and was able to get a more appropriate IEP, behavior intervention plan (BIP), and transition plan in place. RL now has an instructional schedule that is not only visual, but also includes more vocational education tasks and his inappropriate behaviors have decreased.

Access To Interpreter Changes Everything

The mother of a student with a hearing impairment contacted the Advocacy Center to provide assistance in getting the school district to develop and implement an IEP for her son that was appropriate and contained accommodations to address his hearing impairment and to get the school district to provide an appropriate education sign language interpreter on a daily basis for during the entire school day. At the time, the client was not receiving the services on a consistent basis due to the

school system claiming it could not find an education sign language interpreter. AC staff reviewed documents and attended several IEP meetings on behalf our client. These meetings resulted the school district developing and implementing an appropriate IEP and the client began receiving appropriate interpreter services on a daily basis for the entire school day. Also, because of the inconsistency of the services in the past, the client was awarded compensatory educational services during the summer. Additionally, our client, who was interested in playing football, was able to effectively participate in the football program after his interpreter began accompanying him to football practice and football games. He went on to receive his letterman jacket during that school year.

Status of agency's activities/participation on DDC plan initiatives and impact

Objective 3.1 4,000 people on the waiting list will begin receiving home- and community-based services by educating stakeholders, policy makers and the public about the waiting list and needed systems reforms.

Activity 3.1.2 Collaborate with other advocacy groups to plan and support Disability Rights Rallies.

Activity 3.1.3 Advocate for systems change initiatives, revenue generating strategies, policies and practices needed to expand supports and services.

Activity 3.1.4 Monitor the possible restructuring of long-term supports and services to a managed care system and advocate for an increased quality and quantity of services to be included in the reorganized system.

Activity 3.1.5 Research impact of managed care on individuals determined to be dual eligible and make recommendations to DHH.

Activity 3.1.6 Monitor the effect of Medicare/Medicaid dual eligibility on services for people with developmental disabilities.

The Advocacy Center continues participate in stakeholder meetings regarding the possible transition to managed care for long term services and supports. Staff is also supporting the Disability Rights Rally and legislative roundtables as resources allow.

Objective 3.2 Admissions to residential facilities will decrease by increasing access to behavioral and medical intervention in the community and the discontinuation of people adjudicated into state-operated facilities.

Activity 3.2.1 Advocate in collaboration with the Advocacy Center for

- additional providers with specialized expertise in behavioral services;
- the development of plan upon admission that includes specific activities, persons responsible and timelines for discharge or transition; and
- improving the home and community based system by soliciting feedback from individual families using or trying to access behavioral health services and sharing that information with the DHH leadership.

Activity 3.2.2 Advocate for self-direction to be exempted from medication administration requirements.

Activity 3.2.3 Advocate for adequate rates that support services for people with complex medical and behavioral needs.

Advocacy Center staff have assisted a number of individuals with intellectual disabilities and behavioral health needs to access community services via Magellan. We will continue to advocate for additional providers to meet the needs of this population, in collaboration with the DD Council.

Objective 3.3 The number of people in private ICFs/DD per capita in Louisiana will decrease to reach the national average through the transition of people to home- and community-based services.

Activity 3.3.1 Advocate for

- changes to the rate structure of the Residential Options Waiver to encourage private ICF/DD providers to convert their beds so individuals can transition to waiver services,

Activity 3.3.2 Advocate for initiatives that allow residents of private ICFs/DD to obtain waiver services.

The Advocacy Center remains concerned about the lack of recent progress to address the NOW waiver waiting list. We continue to assist individuals living in group homes to access waiver services as we have discovered numerous problems with notifications and refusal of waiver services.

Objective 7.3 There will be an increase in the number of charter schools, early education programs, and other publically funded education facilities that approximate the percentage of students statewide served with developmental disabilities across all LEAs.

Activity 7.3.1 Advocate for improved oversight and monitoring of admissions and service delivery to students with disabilities in Charter Schools, early education programs, and other publicly funded education facilities in collaboration with the Advocacy Center.

Advocacy Center staff will continue to collaborate with the DD Council and LA TEACH to address systemic educational issues as resources permit.

Objective 7.4 Students will be protected from discipline practices that cause harm and/or violate their rights.

Activity 7.4.1 Monitor and advocate as necessary against the use of harmful practices (e.g., restraint and seclusion, corporal punishment, unnecessary use of law enforcement, etc.) and alternative positive evidence based options (e.g., positive behavior

practices, etc.) and advocate for policies and practices that promote the safe and effective practices in collaboration with the Advocacy Center.

This is not a systemic priority for the Advocacy Center at this time. However, we will investigate cases of inappropriate restraint and seclusion on behalf of students with disabilities and will support efforts of the DD Council and other advocates as resources permit.

Objective 9.1 Louisiana will develop and implement an Employment First plan.

Activity 9.1.1 Advocate for

- policies that incentivize services for individualized integrated, competitive employment and dis-incentivize segregated, sheltered day habilitation services,
- sheltered workshops to transition people into individualized, competitive, paid employment and discontinue admissions into segregated day programs,
- collaborative policy making and practices across state agencies that promote students being supported in and transitioning into competitive paid employment,
- LRS and OCDD will collaborate to mandate that all supported employment vendors/providers complete a university-based 40-hour training,
- Support family members and other advocates to serve on the Louisiana work team in developing an Employment First agenda and implementation plan including participation in state level meetings.

The Advocacy Center remains concerned about the slow pace of progress on the Employment First plan. We continue to advocate for increased employment options for people living in group homes and is currently following a number of individuals as they attempt to access services through Louisiana Rehabilitation Services. Staff are also addressing employment options as part of a focus on transition services in school.

Objective 9.3 The Louisiana Vocational Rehabilitation (VR) program's federal draw down will increase.

Activity 9.3.1 Advocate for Louisiana to draw down the entire VR grant award and serve individuals with the most severe disabilities.

The Advocacy Center believes that Louisiana could benefit greatly from additional resources for Louisiana Rehabilitation Services and will continue to support efforts to increase LRS funding as resources allow.

Objective 9.4 Family members and others will be knowledgeable about options for integrated, competitive employment in collaboration with the Advocacy Center and the LSU-HSC Human Development Center.

The Advocacy Center is addressing this initiative via the Employment First Initiative, WIPA benefits planning, and AC's new initiative to increase the number of people with disabilities in State jobs.



ADVOCACY CENTER

SERVING PEOPLE WITH DISABILITIES AND SENIOR CITIZENS

OPTING OUT OF BAYOU HEALTH

Some people who currently get their health care through Bayou Health have the option of getting their health care through “legacy” Medicaid instead. This is called opting out of Bayou Health.

THESE PEOPLE CAN OPT OUT

- Alaskan natives or members of a federally recognized tribe; or
- People under age 19 and in any of the following groups:
 - receive SSI,
 - in foster care or other out-of-home placement,
 - receive foster care or adoption assistance, receiving services through the Office of Public Health’s Children’s Special Health Services, or
 - enrolled in the Family Opportunity Act Medicaid Buy-In Program.

HOW TO OPT OUT OF BAYOU HEALTH

- Call Maximus at (855) BAYOU4U or 855-229-6848, OR
- Online at www.BAYOUhealth.com

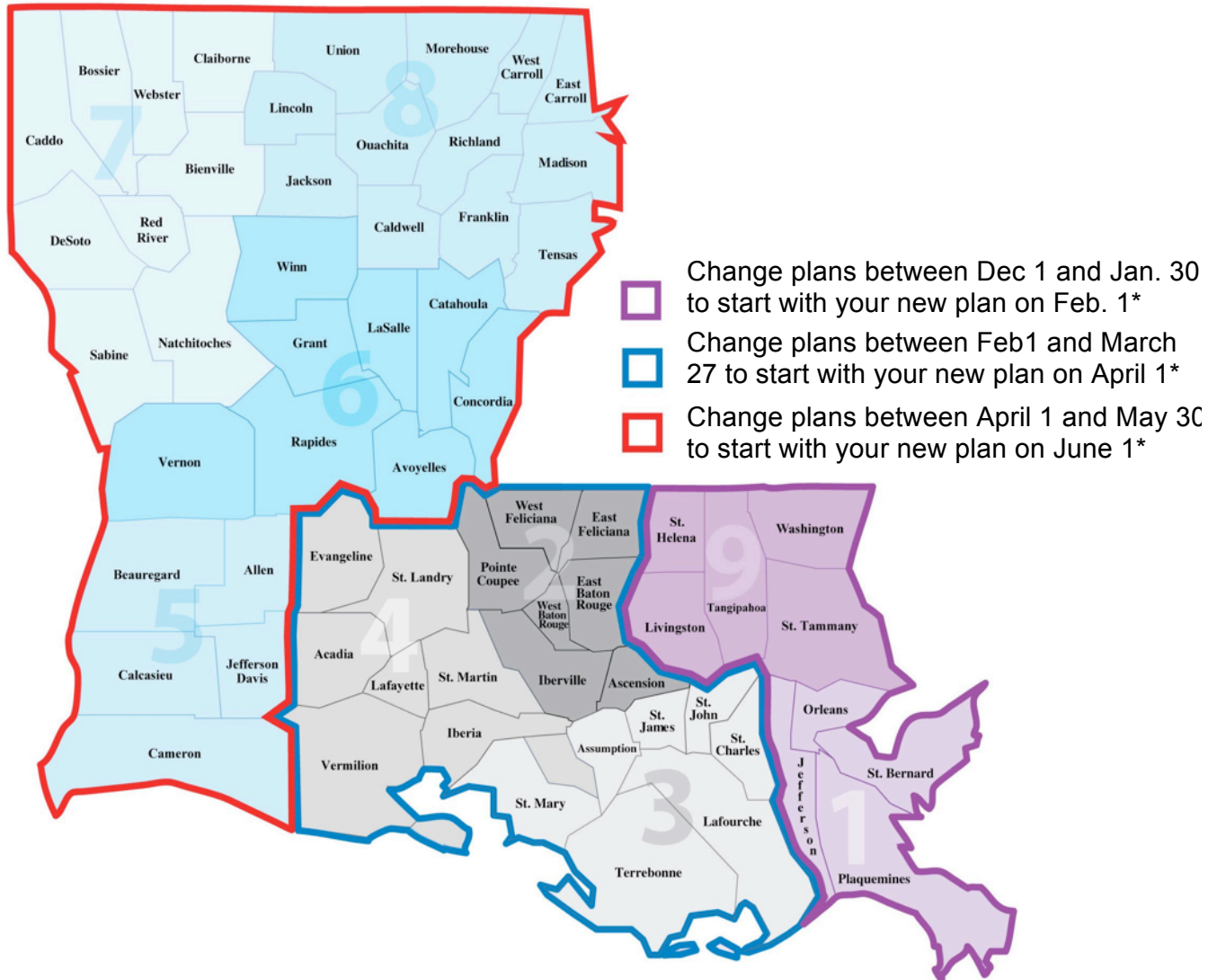
OPTING OUT DURING THE OPEN ENROLLMENT PERIOD

- Open Enrollment dates vary depending on the parish where you live. See page two for a map with dates.
- There will be a 60-day time period in which you can opt out
 - You will get a letter at the start of this 60-day period. This time period is called “open enrollment.”
 - You do not need to give a reason to opt out of Bayou Health as long as you are in one of the groups above.
- If you do not opt out, you will stay enrolled with the Bayou Health plan you have.

OTHER WAYS TO OPT OUT

- If you don't opt out during the 60-day open enrollment period, you can only opt out later in the year if you have a good reason.
- These include:
 - If you receive poor quality care
 - If a service you need is no longer available
 - If you need a special type of doctor that is not available from your current plan

OPEN ENROLLMENT DATES BY PARISH



- You do not need to give a reason to change plans during this time.
- **Call Maximus at (855) BAYOU-4U or 855-229-6848 to confirm your open enrollment dates.

To learn more about Bayou Health and the different plans, look at our flyer “What Is Bayou Health” to find out..

Contact the Advocacy Center to report problems signing up for a plan, changing plans, or getting services.

1-800-960-7705 (Toll free* Voice or Via 711 Relay) 1-855-861-3577 (TTY)
advocacycenter@advocacyla.org www.advocacyla.org



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CHANGING YOUR BAYOU HEALTH PLAN – OPEN ENROLLMENT

EACH YEAR, FOR A 60 DAY PERIOD, BAYOU HEALTH PARTICIPANTS CAN CHANGE THEIR PLAN:

- How to change your plan:
 - Call Maximus at (855) BAYOU4U or 855-229-6848, OR
 - Online at www.BAYOUhealth.com
- Take Your Time: You cannot be forced to make a decision during the call.
- Prescription Coverage: The three prepaid plans (Amerigroup, LaCare/ AmeriHealth Caritas Louisiana, Louisiana Healthcare Connections) each have a list of prescribed drugs that they will cover, that are different from the list Medicaid otherwise covers. If you have prescriptions you regularly use, you should check which ones the plan covers.

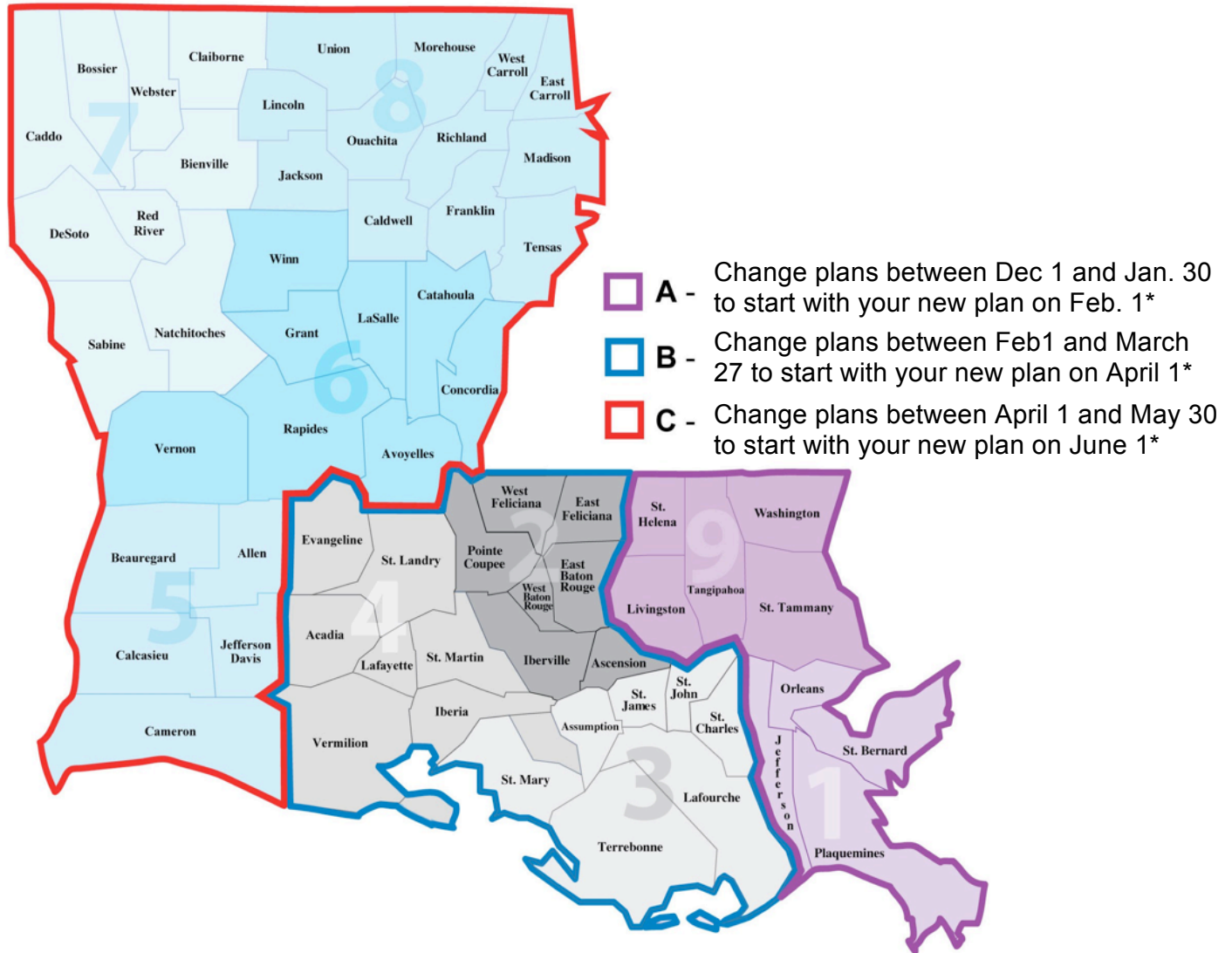
OPEN ENROLLMENT/WHEN YOU CAN CHANGE:

- Open Enrollment dates vary depending on the parish where you live. See page two for a map with dates. You can pick a different plan:
- There will be a 60-day time period in which you can change plans
 - You will get a letter at the start of this 60-day period. This time period is called “open enrollment.”
 - You do not need to give a reason to change plans during this time.
- If you do not pick a new plan, you will stay enrolled with the Bayou Health plan you have.
- If you don't change plans during the 60-day open enrollment period, you can only change later in the year if you have a good reason.
- During this 60 day period, SSI recipients under age 19, Native Americans, and recipients of foster care, adoption assistance, or Children's Special Health Services can also tell DHH they want out of Bayou Health, and Maximus must act on this.

PROBLEMS WITH YOUR MANAGED CARE SERVICES

- The Advocacy Center wants to hear from you.
- Contact AC if you are unable to get services you need.
 - 1-800-960-7705
 - advocacycenter@advocacyla.org
 - www.advocacyla.org

OPEN ENROLLMENT DATES BY PARISH



- You do not need to give a reason to change plans during this time.
- **Call Maximus at (855) BAYOU-4U or 855-229-6848 to confirm your open enrollment dates.

To learn more about Bayou Health and the different plans, look at our flyer “What Is Bayou Health”.

Contact the Advocacy Center to report problems signing up for a plan, changing plans, or getting services.

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