

NOTICE OF INTENT

Department of Health  
Bureau of Health Services Financing

Intermediate Care Facilities for Persons  
with Intellectual Disabilities  
Temporary Reimbursement for Private Facilities  
(LAC 50:VII.32904)

The Department of Health, Bureau of Health Services Financing amends LAC 50:VII.32904 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing previously promulgated an Emergency Rule to extend the temporary rates for intermediate care facilities for persons with intellectual disabilities (ICFs/IID) that have a cooperative endeavor agreement with the Office for Citizens with Developmental Disabilities and have a high concentration of people who have intellectual developmental disabilities, significant behavioral health needs, and high risk behavior resulting in previous interface with the judicial system, and for whom no other private ICF/IID provider is able to support (*Louisiana Register*, Volume 51, Number 2). This proposed Rule is being promulgated to continue the provisions of the January 30, 2025 Emergency Rule.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part VII. Long Term Care

Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities

Chapter 329. Reimbursement Methodology

Subchapter A. Non-State Facilities

§32904. Temporary Reimbursement for Private Facilities

A. - A.4. ...

B. The temporary Medicaid reimbursement rate shall not extend beyond December 31, 2028.

C. - E.2.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:593 (May 2021), amended LR 48:2129 (August 2022), LR 49:688 (April 2023), LR 51:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

**Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

**Small Business Analysis Template Language**

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses.

**Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to

provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since this proposed Rule increases payments to providers for the services they already render.

#### **Public Comments**

Interested persons may submit written comments to Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is March 23, 2025.

#### **Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on March 12, 2025. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on March 27, 2025 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after March 12, 2025. If a public hearing is

to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Michael Harrington, MBA, MA

Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

Person Preparing Statement:	<u>Lyrica Johnson</u>	Dept.:	<u>Health</u>
Phone:	<u>342-6375</u>	Office:	<u>Bureau of Health Services Financing</u>
Return Address:	<u>P.O. Box 91030</u>	Rule Title:	<u>Intermediate Care Facilities for Persons with Intellectual Disabilities</u>
	<u>Baton Rouge, LA</u>	Date Rule Takes Effect:	<u>January 30, 2025</u>
			<u>Temporary Reimbursement for Private Facilities</u>

**SUMMARY  
(Use complete sentences)**

In accordance with Section 961 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that implementation of this proposed rule will result in costs that are currently allocated in the budget and continue an existing rate. The cost to the state will be approximately \$178,080 for FY 24-25, \$445,956 for FY 25-26, and \$445,956 for FY 26-27. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 24-25 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule continues the provisions of the January 30, 2025, Emergency Rule which will extend the temporary rates for intermediate care facilities for persons with intellectual disabilities (ICFs/IID) that have a cooperative endeavor agreement with the Office for Citizens with Developmental Disabilities and have a high concentration of people who have intellectual developmental disabilities, significant behavioral health needs, and high risk behavior resulting in previous interface with the judicial system, and for whom no other private ICF/IID provider is able to support.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

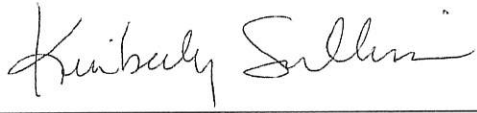
It is anticipated that the implementation of this proposed rule will result in federal revenue collections that are currently allocated in the budget and continue an existing rate. It is anticipated federal revenue collections will be approximately \$377,422 for FY 24-25, \$942,882 for FY 25-26, and \$942,882 for FY 26-27. It is anticipated that \$270 will be collected in FY 24-25 for the federal share of the expense for promulgation of this proposed rule and the final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)**

This proposed rule continues the provisions of the January 30, 2025, Emergency Rule which will extend the temporary rates for intermediate care facilities for persons with intellectual disabilities (ICFs/IID) that have a cooperative endeavor agreement with the Office for Citizens with Developmental Disabilities and have a high concentration of people who have intellectual developmental disabilities, significant behavioral health needs, and high risk behavior resulting in previous interface with the judicial system, and for whom no other private ICF/IID provider is able to support. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring that eligible ICFs/IID are able to maintain the current level of service. It is anticipated that implementation of this proposed rule will result in costs to the Medicaid program of approximately \$554,962 for FY 24-25, \$1,388,838 for FY 25-26, and \$1,388,838 for FY 26-27.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule has no known effect on competition and employment.



Signature of Head or Designee

Kimberly Sullivan, JD  
Medicaid Executive Director

Typed Name & Title of Agency Head or Designee

02/07/2025

Date of Signature



Legislative Fiscal Officer or Designee

2/10/2025

Date of Signature

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

This proposed rule continues the provisions of the January 30, 2025, Emergency Rule which will extend the temporary rates for intermediate care facilities for persons with intellectual disabilities (ICFs/IID) that have a cooperative endeavor agreement with the Office for Citizens with Developmental Disabilities and have a high concentration of people who have intellectual developmental disabilities, significant behavioral health needs, and high risk behavior resulting in previous interface with the judicial system, and for whom no other private ICF/IID provider is able to support. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring that eligible ICFs/IID are able to maintain the current level of service.

- B. Summarize the circumstances, which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

The Department of Health, Bureau of Health Services Financing previously promulgated an Emergency rule to extend the temporary rates for intermediate care facilities for persons with intellectual disabilities (ICFs/IID) that have a cooperative endeavor agreement with the Office for Citizens with Developmental Disabilities and have a high concentration of people who have intellectual developmental disabilities, significant behavioral health needs, and high risk behavior resulting in previous interface with the judicial system, and for whom no other private ICF/IID provider is able to support (*Louisiana Register*, Volume 51, Number 2). This proposed Rule is being promulgated to continue the provisions of the January 30, 2025, Emergency Rule.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

No. This rule continues a pre-existing rate and is already included in the budget.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) \_\_\_\_\_ YES. If yes, attach documentation.

(b) \_\_\_\_\_ NO. If no, provide justification as to why this rule change should be published at this time

FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 25	FY 26	FY 27
PERSONAL SERVICES	\$0	\$0	\$0
OPERATING EXPENSES	\$540	\$0	\$0
PROFESSIONAL SERVICES	\$0	\$0	\$0
OTHER CHARGES	\$554,962	\$1,388,838	\$1,388,838
EQUIPMENT	\$0	\$0	\$0
MAJOR REPAIR & CONSTR.	\$0	\$0	\$0
<b>TOTAL</b>	<b>\$555,502</b>	<b>\$1,388,838</b>	<b>\$1,388,838</b>
<b>POSITIONS (#)</b>	<b>0</b>	<b>0</b>	<b>0</b>

2. Provide a narrative explanation of the costs or savings shown in "A. 1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

The expenses reflected above are the anticipated expenditures in the Medicaid program. In FY 24-25, \$540 will be spent for the state's administrative expense for promulgation of this proposed rule and the final rule.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 25	FY 26	FY 27
STATE GENERAL FUND	\$178,808	\$445,956	\$445,956
AGENCY SELF-GENERATED	\$0	\$0	\$0
DEDICATED	\$0	\$0	\$0
FEDERAL FUNDS	\$377,422	\$942,882	\$942,882
OTHER (Specify)	\$0	\$0	\$0
<b>TOTAL</b>	<b>\$555,502</b>	<b>\$1,388,838</b>	<b>\$1,388,838</b>

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

Yes, sufficient funds are available to implement this rule. This is continuing an existing rate, and was included in the Department's budget for FY 24-25.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

This proposed rule has no known impact on local governmental units.

2. Indicate the sources of funding of the local governmental unit, which will be affected by these costs or savings.

There is no known impact on the sources of local governmental unit funding.

FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 25	FY 26	FY 27
STATE GENERAL FUND	\$0	\$0	\$0
AGENCY SELF-GENERATED	\$0	\$0	\$0
DEDICATED	\$0	\$0	\$0
FEDERAL FUNDS	\$377,422	\$942,882	\$942,882
LOCAL FUNDS	\$0	\$0	\$0
<b>TOTAL</b>	<b>\$377,422</b>	<b>\$942,882</b>	<b>\$942,882</b>

\*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

The amounts reflected above are the estimated federal share of programmatic expenditures for the Medicaid program. In FY 24-25, \$270 will be collected for the federal share of the administrative expense for promulgation of this proposed rule and the final rule.

FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS

- A. What persons, small businesses, or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

This proposed rule continues the provisions of the January 30, 2025, Emergency Rule which will extend the temporary rates for intermediate care facilities for persons with intellectual disabilities (ICFs/IID) that have a cooperative endeavor agreement with the Office for Citizens with Developmental Disabilities and have a high concentration of people who have intellectual developmental disabilities, significant behavioral health needs, and high risk behavior resulting in previous interface with the judicial system, and for whom no other private ICF/IID provider is able to support. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring that eligible ICFs/IID are able to maintain the current level of service.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.
- C. It is anticipated that implementation of this proposed rule will result in costs to the Medicaid program of approximately \$554,962 for FY 24-25, \$1,388,838 for FY 25-26, and \$1,388,838 for FY 26-27.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

This proposed rule has no known effect on competition and employment.