

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Intermediate Care Facilities for Persons with
Intellectual Disabilities—Public Facilities
Reimbursement Rate Increase
(LAC 50:VII.32969)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:VII.32969 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.

Due to an increase in the add-on amount to the per diem rate for the provider fee, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for intermediate care facilities for persons with intellectual disabilities (ICFs/ID) in order to increase the transitional rates paid to public facilities (*Louisiana Register*, Volume 40, Number 9). This proposed Rule is being promulgated to continue the provisions of the October 1, 2014 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 C. Public Facilities

§32969. Transitional Rates for Public Facilities

A. Effective October 1, 2012, the department shall establish a transitional Medicaid reimbursement rate of \$302.08 per day per individual for a public ICF/ID facility over 50 beds that is transitioning to a private provider, as long as the provider meets the following criteria:

A.1. - A.2.a ...

3. incurs or will incur higher existing costs not currently captured in the private ICF/ID rate methodology; and

4. shall agree to downsizing and implement a pre-approved OCDD plan:

a. any ICF/ID home that is a cooperative endeavor agreement (CEA) to which individuals transition to satisfy downsizing requirements, shall not exceed 6-8 beds.

B. - F.4. ...

G. Effective for dates of service on or after October 1, 2014, the transitional Medicaid reimbursement rate shall be increased by \$1.85 of the rate in effect on September 30, 2014.

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 and Hospitals, Bureau of Health Services Financing, LR 39:326 (February 2013), amended LR 40:2588 (December 2014), amended by

the Department of Health, Bureau of Health Services Financing, LR 44:

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.

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.

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 same services they already render.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, February 27, 2018 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person

Preparing

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Rule Title: Intermediate Care Facilities for
Persons with Intellectual
Disabilities—Public Facilities
Reimbursement Rate Increase

Date Rule Takes Effect: October 1, 2014

SUMMARY

In accordance with Section 953 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 summary statements, based on the attached worksheets, 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 the implementation of this proposed rule will result in estimated state programmatic cost of approximately \$28,279 for FY 17-18, \$17,970 for FY 18-19 and no programmatic costs for FY 19-20 as the transition period for the increased reimbursement ends with FY 18-19. It is anticipated that \$432 (\$216 SGF and \$216 FED) will be expended in FY 17-18 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 63.34 percent in FY 17-18 and 64.23 percent in FY 18-19.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$48,702 for FY 17-18, \$32,269 for FY 18-19 and no federal revenue collections for FY 19-20 as the transition period for the increased reimbursement ends with FY 18-19. It is anticipated that \$216 will be collected in FY 17-18 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 63.34 percent in FY 17-18 and 64.23 FY 18-19.

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

This proposed Rule continues the provisions of the October 1, 2014 Emergency Rule which amended the reimbursement methodology governing intermediate care facilities for persons with intellectual disabilities (ICFs/ID) in order to increase the transitional rates paid to certain public facilities. The proposed Rule will benefit providers of ICF/ID services that qualify for the increased reimbursement during the transition period. It is anticipated that implementation of this proposed rule will increase programmatic expenditures for ICFs/ID services by approximately \$76,549 for FY 17-18, \$50,239 for FY 18-19, and will have no impact in FY 19-20 since the transition period for the increased payments ends with FY 18-19 payments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that the implementation of the proposed rule may have a positive effect on employment as it will increase the payments made to certain public ICFs/ID. The increase in payments may improve the financial standing of these facilities and could possibly cause an increase in employment opportunities.



Signature of Agency Head
or Designee

Jen Steele, Medicaid Director

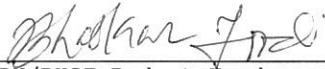
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Agency Head or Designee



Legislative Fiscal Officer
or Designee

1/10/18

Date of Signature



LDH/BHSF Budget Head

01/10/18

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 deliberations 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 October 1, 2014 Emergency Rule which amended the reimbursement methodology governing intermediate care facilities for persons with intellectual disabilities (ICFs/ID) in order to increase the transitional rate paid to certain public facilities.

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

Due to an increase in the add-on amount to the per diem rate for the provider fee, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for intermediate care facilities for persons with intellectual disabilities (ICFs/ID) in order to increase the transitional rates paid to public facilities (Louisiana Register, Volume 40, Number 9). This proposed Rule is being promulgated to continue the provisions of the October 1, 2014 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.

Yes, this proposed rule will result in an increase in programmatic expenditures by approximately \$76,981 for FY 17-18 and \$50,239 for FY 18-19. In FY 17-18, \$432 is included for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

- (a) x If yes, attach documentation.
(b) If no, provide justification as to why this rule change should be published at this time.

Act 15 of the 2017 Regular Session of the Louisiana Legislature allocated funds to the Medical Vendor Program for payments to providers and thereby authorizes the expenditure of these funds. The rule change should be published at this time to make enhanced payments to ICFs/ID to lessen the impact of the financial burden on public facilities that are transitioning to private providers.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

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

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

COST	FY 17-18	FY 18-19	FY 19-20
PERSONAL SERVICES			
OPERATING EXPENSES	\$432	\$0	\$0
PROFESSIONAL SERVICES			
OTHER CHARGES	\$76,549	\$50,239	\$0
REPAIR & CONSTR.			
POSITIONS (#)			
TOTAL	\$76,981	\$50,239	\$0

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 estimated increases in programmatic expenditures in the Medicaid program. In FY 17-18, \$432 is included 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 17-18	FY 18-19	FY 19-20
STATE GENERAL FUND	\$28,279	\$17,970	\$0
SELF-GENERATED			
FEDERAL FUND	\$48,702	\$32,269	\$0
OTHER (Specify)			
Total	\$76,981	\$50,239	\$0

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.

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

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustment 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.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

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

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

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

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

REVENUE INCREASE/DECREASE	FY 17-18	FY 18-19	FY 19-20
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
RESTRICTED FUNDS*			
FEDERAL FUNDS	\$48,702	\$32,269	\$0
LOCAL FUNDS			
Total	\$48,702	\$32,269	\$0

**Specify the particular fund being impacted*

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

The amounts reflected above are the estimated increases in the federal share of programmatic expenditures for the Medicaid Program. In FY 17-18, \$216 is included for the federal expense for promulgation of this proposed rule and the final rule.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS

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

This proposed Rule continues the provisions of the October 1, 2014 Emergency Rule which amended the reimbursement methodology governing intermediate care facilities for persons with intellectual disabilities (ICFs/ID) in order to increase the transitional rate paid to certain public facilities.

- B. Also, provide an estimate of any revenue impact resulting from this rule or rule change to these groups.

The proposed Rule will benefit providers of ICF/ID services that qualify for the increased reimbursement during the transition period. It is anticipated that implementation of this proposed rule will increase programmatic expenditures for ICFs/ID services by approximately \$76,549 for FY 17-18, \$50,239 for FY 18-19, and will have no impact in FY 19-20 since the transition period for the increased payments ends with FY 18-19 payments.

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.

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that the implementation of the proposed rule may have a positive effect on employment as it will increase the payments made to certain public ICFs/ID. The increase in payments may improve the financial standing of these facilities and could possibly cause an increase in employment opportunities.