

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Professional Services Program
Reimbursement Methodology
State-Owned or Operated Professional Services Practices
(LAC 50:IX.15110 and 15113)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:IX.15110 and amend §15113 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 provides reimbursement under the Medicaid State Plan to physicians and other professional services practitioners for services rendered to Medicaid covered recipients.

The department promulgated an Emergency Rule which amended the provisions governing the Professional Services Program in order to revise the reimbursement methodology for services rendered by physicians and other professional services practitioners employed by, or under contract to provide services in affiliation with a state-owned or operated entity (*Louisiana Register*, Volume 43, Number 5). This proposed Rule is being promulgated to continue the provisions of the May 1, 2017 Emergency Rule.

PUBLIC HEALTH-MEDICAL ASSISTANCE
Part IX. Professional Services Program
Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter A. General Provisions

§15110. State-Owned or Operated Professional Services Practices

A. Qualifying Criteria. Effective for dates of service on or after May 1, 2017, in order to qualify to receive payments for services rendered to Medicaid recipients under these provisions, physicians and other eligible professional service practitioners must be:

1. licensed by the state of Louisiana;
2. enrolled as a Louisiana Medicaid provider; and
3. employed by, or under contract to provide services

in affiliation with, a state-owned or operated entity, such as a state-operated hospital or other state entity, including a state academic health system, which:

a. has been designated by the department as an essential provider. Essential providers include:

- i. LSU School of Medicine - New Orleans;
- ii. LSU School of Medicine - Shreveport; and
- iii. LSU state-operated hospitals (Lallie Kemp

Regional Medical Center and Villa Feliciana Geriatric Hospital.

B. Payment Methodology. Effective for dates of service on or after May, 1, 2017, payments shall be made in the amount of the billed charges for services rendered by physicians and other

eligible professional service practitioners who qualify under the provisions of §15110.A.

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 43:

Subchapter B. Physician Services

§15113. Reimbursement Methodology

A. - M. ...

N. Effective for dates of service on or after May 1, 2017, physicians, who qualify under the provisions of §15110 for services rendered in affiliation with a state-owned or operated entity that has been designated as an essential provider, shall receive payment in the amount of the billed charges for qualifying services.

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 36:1252 (June 2010), amended LR 36:2282 (October 2010), LR 37:904 (March 2011), LR 39:3300, 3301 (December 2013), LR 41:541 (March 2015), LR 41:1119 (June 2015), LR 41:1291 (July 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

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.

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 a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 as it will ensure continued access to by Medicaid recipients to services rendered by physicians and other professional services practitioners affiliated with state-owned or operated professional services practices.

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 a positive impact on child, individual or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it reduces the financial burden for families of Medicaid recipients who are in need of access to services rendered by physicians and other professional services practitioners affiliated with state-owned or operated professional services practices.

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, and may reduce the total direct and indirect cost to the provider to provide the same level of service and enhance the provider's ability to provide the same level of service since this proposed Rule increases the payment 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. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, July 27, 2017 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: Professional Services Program
Reimbursement Methodology
State-Owned or Operated
Professional Services Practices

Date Rule Takes Effect: May 1, 2017

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 fund costs of approximately \$270 for FY 16-17, \$99,222,685 for FY 17-18 and \$91,291,650 for FY 18-19. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed rule and the final rule. The state match shall be funded through an intergovernmental transfer of funds from the qualifying professional services providers. 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 \$270 for FY 16-17, \$171,433,847 for FY 17-18 and \$163,926,830 for FY 18-19. It is anticipated that \$270 will be expended in FY 16-17 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 in 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 May 1, 2017 Emergency Rule which amended the provisions governing the Professional Services Program in order to revise the reimbursement methodology for services rendered by physicians and other professional services practitioners employed by, or under contract to provide services in affiliation with a state-owned or operated entity. It is anticipated that implementation of this proposed rule will increase programmatic expenditures for the Professional Services Program by approximately \$270,656,532 for FY 17-18 and \$255,218,480 for FY 18-19.

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 and employment.



Signature of Agency Head
or Designee

Evan Brassel, Staff Director

Legislative Fiscal Officer
or Designee

Jen Steele, Medicaid Director
Typed name and Title of
Agency Head or Designee

6/8/17
Date of Signature



LDH/BHSF Budget Head

06/08/17
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 May 1, 2017 Emergency Rule which amended the provisions governing the Professional Services Program in order to revise the reimbursement methodology for services rendered by physicians and other professional services practitioners employed by, or under contract to provide services in affiliation with a state-owned or operated entity.

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

The Department of Health, Bureau of Health Services Financing provides reimbursement under the Medicaid State Plan to physicians and other professional services practitioners for services rendered to Medicaid covered recipients.

The department promulgated an Emergency Rule which amended the provisions governing the Professional Services Program in order to revise the reimbursement methodology for services rendered by physicians and other professional services practitioners employed by, or under contract to provide services in affiliation with a state-owned or operated entity (Louisiana Register, Volume 43, Number 5). This proposed Rule is being promulgated to continue the provisions of the May 1, 2017 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 a net increase in programmatic expenditures by approximately \$540 for FY 16-17, \$270,656,532 for FY 17-18, \$255,218,480 for FY 18-19. In FY 16-17, \$540 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) If yes, attach documentation.
(b) If no, provide justification as to why this rule change should be published at this time.

Act 17 of the 2016 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. This rule change should be published at this time to ensure continued access to professional services throughout the state, and to allow the state to maximize funding for professional services by securing new federal revenue to fund an intergovernmental financing mechanism with qualifying professional services providers in order to encourage continued participation in the Medicaid Program.

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 16-17	FY 17-18	FY 18-19
PERSONAL SERVICES			
OPERATING EXPENSES	\$540	\$0	\$0
PROFESSIONAL SERVICES			
OTHER CHARGES	\$0	\$270,656,532	\$255,218,480
REPAIR & CONSTR.			
POSITIONS (#)			
TOTAL	\$540	\$270,656,532	\$255,218,480

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 for FY 16-17, FY 17-18, and FY 18-19. In FY 16-17, \$540 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 16-17	FY 17-18	FY 18-19
STATE GENERAL FUND			
SELF-GENERATED	\$270	\$99,222,685	\$91,291,650
FEDERAL FUND	\$270	\$171,433,847	\$163,926,830
OTHER (Specify)			
Total	\$540	\$270,656,532	\$255,218,480

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 16-17	FY 17-18	FY 18-19
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
RESTRICTED FUNDS*			
FEDERAL FUNDS	\$270	\$171,433,847	\$163,926,830
LOCAL FUNDS			
Total	\$270	\$171,433,847	\$163,926,830

**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 For FY 16-17, FY 17-18, and FY 18-19. In FY 16-17, \$270 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 amends the provisions governing the Professional Services Program in order to revise the reimbursement methodology for services rendered by physicians and other professional services practitioners employed by, or under contract to provide services in affiliation with a state-owned or operated entity.

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

It is anticipated that implementation of this proposed rule will increase programmatic expenditures in the Professional Services Program by approximately \$270,656,532 for FY 17-18 and \$255,218,480 for FY 18-19.

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 and employment.