

**NOTICE OF INTENT**

**Department of Health  
Bureau of Health Services Financing**

**Inpatient Hospital Services  
Out-of-State Hospitals  
(LAC 50:V.Chapter 24)**

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:V.Chapter 24 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 is required under 42 CFR §431.52 to pay for services furnished in another state to the same extent that it would pay for in-state services for Medicaid beneficiaries that reside in Louisiana. The department has determined that the current reimbursement rates for inpatient services furnished by out-of-state hospitals are not in alignment with those of in-state hospitals.

In compliance with 42 CFR §431.52, the Department of Health, Bureau of Health Services Financing proposes to adopt provisions governing medically necessary inpatient services furnished to Louisiana Medicaid beneficiaries by out-of-state hospitals in order to align the reimbursement rates for those

services with current in-state inpatient per diem rates for like hospitals/services.

**Title 50**  
**PUBLIC HEALTH-MEDICAL ASSISTANCE**  
**Part V. Hospital Services**  
**Subpart 1. Inpatient Hospitals Services**

**Chapter 24. Out-of-State Hospitals**

**§2401. General Provisions**

A. Effective for dates of service on or after September 20, 2023, payment will be made to out-of-state hospitals for provision of inpatient services which meet at least one of the following conditions:

1. medical services are needed because of a medical emergency;

2. medical services are needed and the beneficiaries' health would be endangered if they were required to travel to their state of residence;

3. the state determines, on the basis of medical advice, that the needed medical services, or necessary supplementary resources, are more readily available in the other state; or

4. it is general practice for beneficiaries in a particular locality to use medical resources in another state.

B. Hospitals located in counties in Mississippi, Arkansas, and Texas that border the state of Louisiana are referred to as trade area hospitals.

C. Trade area hospitals that are unable to fully treat presenting Louisiana beneficiaries shall transfer patients to the Louisiana hospital within the closest proximity with available 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, Bureau of Health Services Financing, LR 49:

**§2403. Reimbursement Methodology**

A. Effective for dates of service on or after September 20, 2023, payment for all out-of-state inpatient services, other than organ transplants, shall be made at the Louisiana in-state prospective peer group rate in effect for the corresponding type of non-teaching hospital or specialty carve out service.

1. Separate prospective per diem rates will be paid for out-of-state inpatient services provided in acute care general hospitals, psychiatric hospitals and services, rehabilitation hospitals, long term acute care hospitals, children's hospitals, nursery services, neonatal intensive care services, pediatric intensive care services, and burn unit intensive care services.

B. Effective for dates of service on or after September 20, 2023, payment for inpatient organ transplant service provided by out-of-state hospitals shall be paid as follows:

1. 40 percent of allowable covered billed charges for beneficiaries ages 21 and above; or

2. 60 percent of allowable covered billed charges for beneficiaries under age 21.

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 49:

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**

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, or on the direct or indirect cost to the provider, but may negatively impact on the provider's ability to provide the same level of service as described in HCR 170, if the reimbursement rate change results in decreased payments to the provider.

#### **Public Comments**

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on July 31, 2023.

### **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 July 10, 2023. 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 July 27, 2023 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 July 10, 2023. 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.

Stephen R. Russo, JD

Secretary