

NOTICE OF INTENT

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

**Nursing Facilities
Reimbursement Methodology
Transition of Private Facilities to State-Owned or
Operated Facilities Through Change of Ownership
(LAC 50:II.20023 and 20024)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:II.20023 and adopt LAC 50:II.20024 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.

In compliance with the directives of Act 933 of the 2010 Regular Session of the Louisiana Legislature, the Department of Health, Bureau of Health Services Financing currently provides reimbursement for the transition of a state-owned or operated nursing facility to a private nursing facility.

As a result of a budgetary shortfall in state fiscal year 2018-2019, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for nursing facilities in order to adopt provisions governing the transition of a private nursing facility to a state-owned or operated nursing facility through a change of ownership (*Louisiana Register*, Volume 44, Number 7). This proposed Rule is

being promulgated to continue the provisions of the July 5, 2018
Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Nursing Facilities

Subpart 5. Reimbursement

Chapter 200. Reimbursement Methodology

§20023. Transition of State-Owned or Operated Nursing Facility to a Private Facility

A. - D.7. ...

E. ~~If there is a subsequent CHOW which results in the
nursing facility reverting to a state-owned or operated
facility, then the reimbursement methodology for a state-owned
or operated nursing facility will be reinstated following the
effective date of the CHOW and all other provisions of this
Section will no longer be applicable~~Repealed.

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 37:903
(March 2011), amended by the Department of Health, Bureau of
Health Services Financing, LR 44:

§20024. Transition of Private Nursing Facility to a State- Owned or Operated Nursing Facility through a Change of Ownership

A. Any private nursing facility that undergoes a change
of ownership (CHOW) to a state-owned or operated nursing

facility will be exempt from the prospective reimbursement system for public nursing facilities during the transitional period.

1. The transitional period will be effective from the date of the CHOW until the July 1 rate setting period following when the state-owned or operated nursing facility has an audited or reviewed 12 month or greater cost reporting period available for use in rate setting.

2. After the transitional period, the nursing facility will be reimbursed pursuant to the requirements of the prospective reimbursement system for public nursing facilities.

B. Effective for dates of service on or after July 5, 2018, the reimbursement amount paid to a public nursing facility during the transitional period shall be as follows:

1. Public nursing facilities transitioning from private ownership shall receive a monthly interim payment based on occupancy, which shall be a per diem rate of \$365.68.

2. For each cost reporting period ending during the transitional period a cost settlement process shall be performed. The cost settlement process shall ensure that Medicaid reimbursement for each public nursing facility transitioning from private ownership is equal to 100 percent of the nursing facility's Medicaid allowable cost for the applicable cost reporting period.

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 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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that nursing facility provider participation in the Medicaid Program is diminished as a result of the reduction in payments.

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 may have an adverse impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 in the event that access to nursing facility services is reduced as a result of diminished provider participation due to the reduction in payments.

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 increase direct or

indirect cost to the provider to provide the same level of service due to the reduction of payments for these services. The proposed Rule may also have a negative impact on the provider's ability to provide the same level of service as described in HCR 170 if the reduction in payments adversely impacts the provider's financial standing.

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 Thursday, December 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