

NOTICE OF INTENT

Department of Health  
Bureau of Health Services Financing

Inpatient Hospital Services  
Non-Rural, Non-State Hospitals  
Reimbursement Rate Increase  
(LAC 50:V.Chapter 9)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:V.Chapter 9 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.

As a result of a budgetary shortfall in SFY 2017, the Department of Health, Bureau of Health Services Financing promulgated a Rule which amended the provisions governing inpatient hospital services to reduce the total supplemental payments pool for non-rural, non-state hospitals classified as high Medicaid hospitals (*Louisiana Register*, Volume 43, Number 7).

House Concurrent Resolution (HCR) 8 of the 2017 Regular Session of the Louisiana Legislature required the Department of Health to increase the Medicaid reimbursement rates paid to qualifying non-rural, non-state hospitals for the provision of inpatient acute care services.

In order to comply with the requirements of HCR 8, the department now proposes to amend the provisions governing the reimbursement methodology for inpatient hospital services to increase the Medicaid reimbursement rates paid to qualifying non-rural, non-state hospitals and to establish provisions for reimbursement to free-standing rehabilitation hospitals.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE  
Part V. Hospital Services  
Subpart 1. Inpatient Hospital Services**

**Chapter 9. Non-Rural, Non-State Hospitals**

**Subchapter B. Reimbursement Methodology**

**§953. Acute Care Hospitals**

A. - U.1. ...

V. Effective for dates of service on or after January 1, 2018, the inpatient per diem rate paid to acute care hospitals shall be increased by indexing to 56 percent of the small rural hospital prospective per diem rate in effect on January 1, 2017.

1. Acute care hospitals whose per diem rates as of January 1, 2017, excluding the graduate medical education portion of the per diem, are greater than 56 percent the January 1, 2017 small rural hospital rate shall not be increased.

2. Carve-out specialty units, nursery boarder, and well-baby services are excluded from these rate increases.

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, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895, 1896 (September 2009), repromulgated LR 35:2182 (October 2009), amended LR 36:1552 (July 2010), LR 36:2561 (November 2010), LR 37:2161 (July 2011), LR 39:3095 (November 2013), LR 39:3297 (December 2013), LR 40:312 (February 2014), repromulgated LR 40:1939, 1940 (October 2014), LR 41:133 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:963 (May 2017), amended LR 43:1389 (July 2017), amended LR 43:

**§955. Long Term Hospitals**

A. - K. ...

L. Effective for dates of service on or after January 1, 2017, the inpatient per diem rate paid to long term hospitals shall be increased by indexing to 42 percent of the small rural hospital prospective per diem rate in effect on January 1, 2017. Long term hospitals whose per diem rates as of January 1, 2017, excluding the graduate medical education portion of the per diem, are greater than 42 percent of the January 1, 2017 small rural hospital rate shall not be increased.

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, Office of the Secretary, Bureau of Health Services Financing, LR: 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1554 (July 2010), LR 36:2562 (November 2010), LR 37:2162 (July 2011), LR 40:312 (February 2014), repromulgated LR 40:1940 (October 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:964 (May 2017), amended LR 43:

**§959. Inpatient Psychiatric Hospital Services**

A. - M.1. ...

N. Effective for dates of service on or after January 1, 2018, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals, and distinct part psychiatric units within non-rural, non-state acute care hospitals, shall be increased by indexing to 31 percent of the small rural hospital prospective per diem rate in effect on January 1, 2017.

1. Psychiatric hospitals and units whose per diem rates as of January 1, 2017, excluding the graduate medical education portion of the per diem, are greater than 31 percent

of the January 1, 2017 small rural hospital rate shall not be increased.

2. Inpatient hospital psychiatric services provided under a public-private partnership as defined in §959.L of this Chapter, LAC 50:V.1701 and LAC 50:V.2901 shall be exempt from this rate increase.

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, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1554 (July 2010), LR 36:2562 (November 2010), LR 37:2162 (July 2011), LR 39:94 (January 2013), LR 39:323 (February 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 43:964 (May 2017), amended LR 43:

**§961. Inpatient Rehabilitation Hospital Services**

A. Definitions

*Free-Standing Rehabilitation Hospital*-a non-rural, non-state hospital that is designated as a rehabilitation specialty hospital by Medicare.

B. Reimbursement Methodology

1. Effective for dates of service on or after January 1, 2018, the prospective per diem rate paid to non-rural, non-state free-standing rehabilitation hospitals shall be indexed to 36 percent of the small rural hospital prospective per diem rate in effect on January 1, 2017.

2. Rehabilitation hospitals whose per diem rates as of January 1, 2017, excluding the graduate medical education portion of the per diem, are greater than 36 percent of the January 1, 2017 small rural hospital rate shall not be increased.

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:

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 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 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 since this proposed Rule increases the 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](mailto: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, October 26, 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  
Statement: Cedric E Clark Dept.: Health  
Phone: 342-2339 Office: Bureau of Health Services  
Financing

Return P.O. Box 91030  
Address: Baton Rouge, LA Rule Title: Inpatient Hospital Services  
Non-Rural, Non-State Hospitals  
Reimbursement Rate Increase

Date Rule Takes Effect: December 20, 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 programmatic cost (Hospital Stabilization Fund statutory dedication revenues) of approximately \$972,105 for FY 17-18, \$2,544,489 for FY 18-19 and \$2,620,824 FY 19-20. It is anticipated that \$864 (\$432 SGF and \$432 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 in FY 18-19 and FY 19-20.*

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

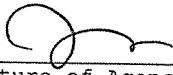
*It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$1,679,259 for FY 17-18, \$4,568,984 for FY 18-19 and \$4,706,053 for FY 19-20. It is anticipated that \$432 will be expended in FY 17-18 for the federal administrative expenses 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 in FY 18-19 and FY 19-20.*

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

*This proposed Rule amends the provisions governing the reimbursement methodology for inpatient hospital services to increase the Medicaid reimbursement rates paid to qualifying non-rural, non-state hospitals and to establish provisions for reimbursement to free-standing rehabilitation hospitals in compliance with the requirements of House Concurrent Resolution (HCR) 8 of the 2017 Regular Session of the Louisiana Legislature. It is anticipated that implementation of this proposed rule will increase programmatic expenditures for inpatient hospital services by approximately \$2,650,500 for FY 17-18, \$7,113,473 for FY 18-19 and \$7,326,877 for FY 19-20.*

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, we anticipate that the implementation may have a positive effect on employment as it will increase payments made to non-rural, non-state hospitals. The increase in payments may enhance the financial standing of these providers and could possibly cause an increase in employment opportunities.

  
\_\_\_\_\_  
Signature of Agency Head  
or Designee

*Evan Brash, Staff Director*  
\_\_\_\_\_  
Legislative Fiscal Officer  
or Designee

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

9/8/17  
Date of Signature

*Shakun Froelich*  
\_\_\_\_\_  
LDH/BHSF Budget Head

09/08/17  
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 amends the provisions governing the reimbursement methodology for inpatient hospital services to increase the Medicaid reimbursement rates paid to qualifying non-rural, non-state hospitals and to establish provisions for reimbursement to free-standing rehabilitation hospitals in compliance with the requirements of House Concurrent Resolution (HCR) 8 of the 2017 Regular Session of the Louisiana Legislature.*

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

*As a result of a budgetary shortfall in SFY 2017, the Department of Health, Bureau of Health Services Financing promulgated a Rule which amended the provisions governing inpatient hospital services to reduce the total supplemental payments pool for non-rural, non-state hospitals classified as high Medicaid hospitals (Louisiana Register, Volume 43, Number 7).*

*House Concurrent Resolution (HCR) 8 of the 2017 Regular Session of the Louisiana Legislature required the Department of Health to increase the Medicaid reimbursement rates paid to qualifying non-rural, non-state hospitals for the provision of inpatient acute care services.*

*In order to comply with the requirements of HCR 8, the department now proposes to amend the provisions governing the reimbursement methodology for inpatient hospital services to increase the Medicaid reimbursement rates paid to qualifying non-rural, non-state hospitals and to establish provisions for reimbursement to freestanding rehabilitation hospitals*

- 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 \$2,651,364 for FY 17-18, \$7,113,473 for FY 18-19 and \$7,326,877 for FY 19-20. In FY 18-19, \$864 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.

*HCR 8 of the 2017 Regular Session of the Louisiana legislature directs the department to implement this increase.*

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	\$864	\$0	\$0
PROFESSIONAL SERVICES			
OTHER CHARGES	\$2,650,500	\$7,113,473	\$7,326,877
REPAIR & CONSTR.			
POSITIONS (#)			
<b>TOTAL</b>	<b>\$2,651,364</b>	<b>\$7,113,473</b>	<b>\$7,326,877</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 estimated increases in programmatic expenditures in the Medicaid program. In FY 17-18, \$864 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			
SELF-GENERATED			
FEDERAL FUND	\$1,679,259	\$4,568,984	\$4,706,053
OTHER (Specify)	\$972,105	\$2,544,489	\$2,620,824
<b>Total</b>	<b>\$2,651,364</b>	<b>\$7,113,473</b>	<b>\$7,326,877</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.*

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	\$1,679,259	\$4,568,984	\$4,706,053
LOCAL FUNDS			
<b>Total</b>	<b>\$1,679,259</b>	<b>\$4,568,984</b>	<b>\$4,706,053</b>

*\*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, \$432 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 reimbursement methodology for inpatient hospital services to increase the Medicaid reimbursement rates paid to qualifying non-rural, non-state hospitals and to establish provisions for reimbursement to free-standing rehabilitation hospitals in compliance with the requirements of House Concurrent Resolution (HCR 8) of the 2017 Regular Session of the Louisiana Legislature.*

- 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 for inpatient hospital services by approximately \$2,650,500 for FY 17-18, \$7,113,473 for FY 18-19 and \$7,326,877 for FY 19-20.*

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, we anticipate that the implementation may have a positive effect on employment as it will increase payments made to non-rural, non-state hospitals. The increase in payments may enhance the financial standing of these providers and could possibly cause an increase in employment opportunities.*