



State of Louisiana
Louisiana Department of Health
Office of the Secretary

January 10, 2023

Via Statutorily Prescribed Email

To: The Honorable Fred H. Mills, Jr., Chairman, Senate Health & Welfare Committee
The Honorable Larry Bagley, Chairman, House Health & Welfare Committee

From: Dr. Courtney N. Phillips
Secretary

A handwritten signature in blue ink, appearing to read "by Dr. Phillips", written over the "From:" line.

Re: Second Report to LAC 50:XV.7321 – Early and Periodic Screening, Diagnosis and Treatment – Personal Care Services – Personal Care Workers Wage Enhancement

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the Early and Periodic Screening, Diagnosis and Treatment – Personal Care Services – Personal Care Workers Wage Enhancement, LAC 50:XV.7321.

A Notice of Intent on the proposed amendments was published in the November 20, 2022 issue of the *Louisiana Register* (LR 48:2835). No written comments were received and there was no request for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the November 20, 2022, Notice of Intent when it is published as a final rule in the February 20, 2023, issue of the *Louisiana Register*.

Please contact Norma Seguin, Norma.Seguin@la.gov, if you have any questions or require additional information about this matter.

Cc: Tara LeBlanc, Medicaid Director, LDH
Shannon Bibbins, Medicaid Deputy Director, LDH
Kolynda Parker, Medicaid Deputy Director, LDH
Brandon Bueche, Medicaid Program Manager, LDH
Veronica Dent, Medicaid Program Manager, LDH
Bethany Blackson, Legislative Liaison, LDH
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

**Early and Periodic Screening, Diagnosis and Treatment
Personal Care Services—Personal Care Workers Wage
Enhancement (LAC 50:XV.7321)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XV.7321 under 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 proposes to amend the provisions governing reimbursement for personal care services (PCS) provided to beneficiaries in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program in order to remove outdated language regarding a wage enhancement that is not applicable to the current EPSDT-PCS program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment

Chapter 73. Personal Care Services

§7321. Reimbursement

A. - A.2. ...

B. - B.1.b. 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, Office of the Secretary, Bureau of Health Services Financing, LR 29:179 (February 2003), amended LR 33:2202 (October 2007), repromulgated LR 33:2425 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2561 (November 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 45:908 (July 2019), 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, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

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. 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 December 30, 2022.

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 December 12, 2022. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on December 29, 2022 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 December 12, 2022. 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. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Early and Periodic Screening, Diagnosis and Treatment—Personal Care Services—Personal Care Workers Wage Enhancement

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 22-23. It is anticipated that \$432 (\$216 SGF and \$216 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 22-23. It is anticipated that \$216 will be collected in FY 22-23 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This proposed rule amends the provisions governing reimbursement for personal care services (PCS) provided to beneficiaries in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program in order to remove outdated language regarding a wage enhancement that is not applicable to the current EPSDT-PCS program. It is anticipated that implementation of this proposed rule will not result in costs to EPSDT-PCS providers in FY 22-23, FY 23-24, and FY 24-25, but will be beneficial by ensuring that language that is no longer relevant and is not a part of the current EPSDT-PCS program is removed from the Louisiana Administrative Code.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2211#055

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office




State of Louisiana
Louisiana Department of Health
Office of the Secretary

January 10, 2023

Via Statutorily Prescribed Email

To: The Honorable Fred H. Mills, Jr., Chairman, Senate Health & Welfare Committee
The Honorable Larry Bagley, Chairman, House Health & Welfare Committee

From: Dr. Courtney N. Phillips
Secretary 

Re: Second Report to LAC 48:I.4001 and 4007 – Healthcare Services Provider Fees – Hospital Fee Assessment

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the Healthcare Services Provider Fees – Hospital Fee Assessment, LAC 48:I.4001 and 4007.

A Notice of Intent on the proposed amendments was published in the November 20, 2022 issue of the *Louisiana Register* (LR 48:2839). Written comments were received; however, no requests for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. After thoroughly reviewing and giving due consideration to the comments received, no substantive changes were made to the proposed amendments since the report provided for in R.S. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the November 20, 2022, Notice of Intent when it is published as a final rule in the February 20, 2023, issue of the *Louisiana Register*.

Please contact Tizi Robinson, Tizi.Robinson@la.gov, if you have any questions or require additional information about this matter.

Cc: Tara LeBlanc, Medicaid Director, LDH
Shannon Bibbins, Medicaid Deputy Director, LDH
Daniel Cocran, Medicaid Deputy Director, LDH
Kimberly Sullivan, Deputy General Counsel, LDH
Veronica Dent, Medicaid Program Manager, LDH
Bethany Blackson, Legislative Liaison, LDH
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

NOTICE OF INTENT
Department of Health
Bureau of Health Services Financing

Healthcare Services Provider Fees
Hospital Fee Assessments
(LAC 48:I.4001 and 4007)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.4001 and §4007 as authorized by R.S. 36:254. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Pursuant to article VII, section 10.13 of the Constitution of Louisiana, the Louisiana Legislature establishes an annual hospital stabilization formula via concurrent resolution which directs the Department of Health, Bureau of Health Services Financing to calculate, levy, and collect an

assessment for each assessed hospital. In compliance with article VII, section 10.13 of the Louisiana Constitution and the Louisiana Legislature concurrent resolution, the Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing healthcare services provider fees in order to revise the assessment methodology for hospital services providers (*Louisiana Register*, Volume 48, Number 10). This proposed Rule is being promulgated to continue the provisions of the September 21, 2022 Emergency Rule.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 1. General

Chapter 40. Provider Fees

§4001. Specific Fees

A. - E.3.a. ...

F. Hospital Services

1. Effective July 1, 2022, a hospital stabilization assessment fee shall be levied and collected in accordance with article VII, section 10.13 of the Constitution of Louisiana, any legislation setting forth the hospital stabilization formula, and departmental requirements relative to directed payments.

a. -Subject to written approval by the Centers for Medicare and Medicaid Services (CMS) of a directed payment arrangement pursuant to 42 C.F.R. 438.6, the Department of Health shall levy and collect an assessment from those hospitals subject to the approved directed payment arrangement. Each approved directed payment arrangement is effective for one Healthy Louisiana Medicaid managed care contract rating period.

i. Prior to the levy of any assessment pursuant to this Subsection, the Department of Health shall submit a Medicaid assessment report to the Joint Legislative Committee on the Budget. The Medicaid assessment report shall include a description of the proposed assessment, the basis for the calculation of the assessment, and a listing of each hospital included in the proposed assessment. The hospital assessment shall be calculated in accordance with the annual hospital stabilization formula set forth by the Legislature of Louisiana and enacted pursuant to article VII, section 10.13 of the Constitution of Louisiana.

ii. An assessment levied pursuant to this Subsection shall be levied only for the quarters that directed payments are actually paid to qualified hospitals pursuant to 42 C.F.R. 438.6 directed payment arrangements approved by CMS.

2. Individual hospitals subject to an assessment under this Subsection shall be obligated to pay such assessment regardless of whether a directed payment is actually paid to the hospital for the quarter for which the assessment is levied.

3. The assessment will be levied and collected on a quarterly basis and at the beginning of each quarter that the assessment is due.

4. - 5. Repealed.

AUTHORITY NOTE: Promulgated in accordance with Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2625 and P.L. 102-234, R.S. 36:254, and Article VII, Section 10.13 of the Constitution of Louisiana.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 19:347 (March 1993), amended LR 20:51 (January 1994), LR 26:1478 (July 2000), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:100 (January 2007), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1887, 1888 (November 2016), LR 43:73 (January 2017), repromulgated LR 43:323 (February 2017), amended LR 44:1015 (June 2018), LR 44:1894 (October 2018), LR 45:1597 (November 2019), LR 49:

§4007. Delinquent and/or Unpaid Fees

A. - C. ...

D. In accordance with departmental requirements relative to directed payments, hospitals that fail to pay the assessment due, or any portion thereof, may be subject to one or more of the following:

1. exclusion from participation in any directed payment arrangement approved by the Centers for Medicare and Medicaid Services pursuant to 42 C.F.R. 438.6;

2. revocation of the hospital's license; or

3. termination of the hospital's enrollment in the Medical Assistance Program (Medicaid).

AUTHORITY NOTE: Promulgated in accordance with Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2625 and PL 102-234.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 19:347 (March 1993), amended LR 20:1114 (October 1994), LR 26:1479 (July 2000), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1887 (November 2016), LR 44:1017 (June 2018), 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,

and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

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 December 30, 2022.

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 December 12, 2022. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on December 29, 2022 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 December 12, 2022. 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. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Healthcare Services Provider Fees Hospital Fee Assessments

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have state programmatic fiscal costs of approximately \$257,146,706 for FY 22-23 and \$0 for FY 23-24 and FY 24-25. The hospital fee assessment revenue generated by the proposed rule will be used in the Medicaid budget to fund rate increases and the hospital directed payment model. It is anticipated that \$756 (\$378 SGF and \$378 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

Article VII, Section 10.13 of the Constitution of Louisiana requires that a House Concurrent Resolution be adopted in each legislative session setting forth the hospital stabilization formula for the subsequent fiscal years. It is anticipated that implementation of this proposed rule will increase statutory dedicated revenue collections by approximately \$257,146,328 for FY 22-23 and \$0 for FY 23-24 and FY 24-25 and will increase federal revenue collections by approximately \$932,558,561 for FY 22-23 and \$0 for FY 23-24 and FY 24-25. It is anticipated that \$378 will be collected in FY 22-23 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This proposed rule continues the provisions of the September 21, 2022 Emergency Rule, which amended the provisions governing healthcare services provider fees in order to revise the assessment methodology for hospital services providers, in compliance with the Louisiana Legislature concurrent resolution and pursuant to Article VII, Section 10.13 of the Constitution of Louisiana. In addition, the proposed rule adds requirements relative to hospital directed payments to the criteria for the levy and collection of the annual hospital stabilization assessment and to the provisions governing delinquent and/or unpaid fees. Implementation of this proposed rule is anticipated to increase federal and statutory dedicated revenue collections by approximately \$1,189,704,511 for FY 22-23 and \$0 for FY 23-24 and FY 24-25, as a result of the hospital stabilization assessment fee.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2211#066

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

Proposed Rule: Healthcare Services Provider Fees – Hospital Fee Assessments
Public Hearing Date: N/A
Docket No. : N/A
Conducted By: N/A

[illegible]

John Bel Edwards
GOVERNOR



Dr. Courtney N. Phillips
SECRETARY

State of Louisiana
Louisiana Department of Health
Bureau of Health Services Financing

January 10, 2023

Paul A. Salles
Louisiana Hospital Association
9521 Brookline Ave.
Baton Rouge, LA 70809

Dear Mr. Salles:

RE: Notice of Intent for Healthcare Services Provider Fees-Hospital Fee Assessments

This letter is in response to your correspondence regarding the Notice of Intent for Healthcare Services Provider Fees-Hospital Fee Assessment which was published in the November 20, 2022 edition of the *Louisiana Register*.

The Notice of Intent proposes to amend the current regulations on the hospital assessment. Your concerns have been reviewed by the Louisiana Department of Health. After giving due consideration to the issues noted in your correspondence, the decision has been made to continue with the provisions of the November 20th Notice of Intent as published in the *Louisiana Register*.

I would like to thank you for taking the time to provide comments and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

Should you have any questions or comments regarding Medicaid administrative rulemaking activity, you may contact Veronica Dent, Medicaid Program Manager, at 225-342-3238 or by email to Veronica.Dent@la.gov.

Sincerely,

A handwritten signature in cursive script that reads "Tara A. LeBlanc".

Tara A. LeBlanc
Medicaid Executive Director

TAL/KHB/KS

c: Daniel Cocran, Medicaid Deputy Director



State of Louisiana
Louisiana Department of Health
Office of the Secretary

January 10, 2023

Via Statutorily Prescribed Email

To: The Honorable Fred H. Mills, Jr., Chairman, Senate Health & Welfare Committee
The Honorable Larry Bagley, Chairman, House Health & Welfare Committee

From: Dr. Courtney N. Phillips
Secretary

A handwritten signature in blue ink, appearing to read "C. Phillips", written over the "From:" line.

Re: Second Report to LAC 50:V.Chapter 21 – Inpatient Hospital Services – Urban Metropolitan Statistical Area Facility – New Orleans Area

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the Inpatient Hospital Services – Urban Metropolitan Statistical Area Facility – New Orleans Area, LAC 50:V.Chapter 21.

A Notice of Intent on the proposed amendments was published in the November 20, 2022 issue of the *Louisiana Register* (LR 48:2845). No written comments were received and there was no request for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the November 20, 2022, Notice of Intent when it is published as a final rule in the February 20, 2023, issue of the *Louisiana Register*.

Please contact Debbie Gough, Debbie.Gough@la.gov, and Tizi Robinson, Tizi.Robinson@la.gov, if you have any questions or require additional information about this matter.

Cc: Tara LeBlanc, Medicaid Director, LDH
Shannon Bibbins, Medicaid Deputy Director, LDH
Daniel Cocran, Medicaid Deputy Director, LDH
Veronica Dent, Medicaid Program Manager, LDH
Bethany Blackson, Legislative Liaison, LDH
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

(Louisiana Register, Volume 48, Number 10). This proposed Rule is being promulgated to continue the provisions of the October 5, 2022 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals Services

**Chapter 21. Urban Metropolitan Statistical Area
(MSA) Facility—New Orleans Area**

§2101. Qualifying Criteria

A. In order to qualify as an urban metropolitan statistical area (MSA) facility—New Orleans area, effective as of October 5, 2022, the hospital must:

1. be designated a non-rural hospital service district located in LDH region 1, with a facility type code of acute, Medicaid enrolled, with an original hospital license date before July 13, 2014, but after July 1, 2014, located in zip code 70127;

2. be a hospital that is located an urban MSA as defined by United States Office of Management and Budget;

3. have an operational emergency room; and

4. not add additional locations under this license, without prior written approval of the department.

a. The addition of any off-site campus, beyond an outpatient primary care clinic, to the license of this hospital will invalidate the provisions of this reimbursement methodology.

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:

§2103. Reimbursement Methodology

A. The inpatient hospital per diem rate paid for acute care services to qualifying urban MSA hospitals—New Orleans area who meet all of the criteria in §2101 shall be increased by indexing annually to 95 percent of the small rural hospital acute per diem rate in effect.

B. The inpatient hospital per diem rate paid for psychiatric services to qualifying urban MSA hospitals—New Orleans area who meet all of the criteria in §2101 shall be increased by indexing annually to 95 percent of the small rural hospital psychiatric per diem rate in effect.

C. These rates are conditional on the hospital continuing to meet all qualifying criteria included in §2101. If the hospital no longer qualifies, payments will revert back to appropriate non-rural, non-state hospital assigned rates effective on the date that the qualification(s) in §2101 are no longer met.

D. The department may review all above provisions every three years, at a minimum to evaluate continuation of these enhanced reimbursements.

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

NOTICE OF INTENT

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

**Inpatient Hospital Services—Urban Metropolitan
Statistical Area Facility—New Orleans Area
(LAC 50:V.Chapter 21)**

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:V.Chapter 21 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 promulgated an Emergency Rule which adopted provisions to establish the criteria for an acute care hospital to qualify as an urban metropolitan statistical area (MSA) facility—New Orleans area and the reimbursement methodology for the provision of inpatient services

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, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

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 December 30, 2022.

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 December 12, 2022. If the criteria set forth in R.S.49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on December 29, 2022 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 December 12, 2022. 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. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

**RULE TITLE: Inpatient Hospital Services
Urban Metropolitan Statistical Area Facility
New Orleans Area**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will result in increased state costs of approximately \$1,116,247 for FY 22-23, \$1,639,568 for FY 23-24, and \$1,639,568 for FY 24-25. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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 \$2,676,187 for FY 22-23, \$3,416,146 for FY 23-24, and \$3,416,146 for FY 24-25. It is anticipated that \$324 will be collected in FY 22-23 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This proposed rule continues the provisions of the October 5, 2022 Emergency Rule which adopted provisions to establish the criteria for an acute care hospital to qualify as an urban metropolitan statistical area (MSA) facility—New Orleans area and the reimbursement methodology for the provision of inpatient services. This proposed rule will benefit Medicaid beneficiaries by ensuring continued access to a New Orleans area urban MSA facility. Implementation of this proposed rule is anticipated to increase Medicaid payments to a qualifying hospital by approximately \$3,791,786 for FY 22-23, \$5,055,714 for FY 23-24, and \$5,055,714 for FY 24-25, which will assist the hospital in achieving financial viability and continuing operations so vital healthcare services remain available.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2211#057

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office




State of Louisiana
Louisiana Department of Health
Office of the Secretary

January 10, 2023

Via Statutorily Prescribed Email

To: The Honorable Fred H. Mills, Jr., Chairman, Senate Health & Welfare Committee
The Honorable Larry Bagley, Chairman, House Health & Welfare Committee

From: Dr. Courtney N. Phillips
Secretary 

Re: Second Report to LAC 50:I.3113 – Managed Care for Physical and Behavioral Health – Hospital Directed Payments

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the Managed Care for Physical and Behavioral Health – Hospital Directed Payments, LAC 50:I.3113.

A Notice of Intent on the proposed amendments was published in the November 20, 2022 issue of the *Louisiana Register* (LR 48:2843). Written comments were received; however, no requests for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. After thoroughly reviewing and giving due consideration to the comments received, no substantive changes were made to the proposed amendments since the report provided for in R.S. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the November 20, 2022, Notice of Intent when it is published as a final rule in the February 20, 2023, issue of the *Louisiana Register*.

Please contact Debbie Gough, Debbie.Gough@la.gov, and Tizi Robinson, Tizi.Robinson@la.gov, if you have any questions or require additional information about this matter.

Cc: Tara LeBlanc, Medicaid Director, LDH
Shannon Bibbins, Medicaid Deputy Director, LDH
Daniel Cocran, Medicaid Deputy Director, LDH
Kimberly Sullivan, Deputy General Counsel, LDH
Veronica Dent, Medicaid Program Manager, LDH
Bethany Blackson, Legislative Liaison, LDH
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

NOTICE OF INTENT

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

**Managed Care for Physical and Behavioral Health
Hospital Directed Payments (LAC 50:I.3113)**

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:I.3113 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 promulgated an Emergency Rule which adopted provisions governing directed payments to qualifying hospitals that participate in the Healthy Louisiana Program and contract with the Medicaid managed care organizations (MCOs) to provide inpatient and outpatient services to MCO enrollees (*Louisiana Register*, Volume 48, Number 10). This proposed Rule continues the provisions of the September 21, 2022 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Managed Care for Physical and Behavioral Health

Chapter 31. General Provisions

§3113. Directed Payments

A. Hospital Directed Payments

1. Subject to written approval by the Centers for Medicare and Medicaid Services (CMS), the Department of Health (hereafter referred to as “the department” and/or “LDH”) shall provide directed payments to qualifying hospitals that participate in the Healthy Louisiana Medicaid managed care program, in accordance with the applicable section 438.6(c) preprint(s) approved by CMS, federal regulations, and departmental requirements. Each CMS approved directed payment arrangement is effective for one Healthy Louisiana Medicaid managed care contract rating period.

2. *Qualifying Hospital*—either of the following:

a. an in-state provider of inpatient and outpatient hospital services (excluding freestanding psychiatric hospitals, freestanding rehabilitation hospitals, and long-term acute care hospitals) that meets the criteria specified in the applicable section 438.6(c) preprint approved by CMS and departmental requirements; or

b. an in-state hospital provider of long-term acute care, psychiatric services, and rehabilitation services for both inpatient and outpatient hospital services that meet the criteria specified in the applicable section 438.6(c) preprint approved by CMS and departmental requirements.

3. The department shall assign qualifying hospitals to provider classes based upon criteria specified in the applicable section 438.6(c) preprint(s) approved by CMS, in accordance with departmental requirements.

a. Qualifying hospitals shall have no right to an administrative appeal regarding any issue related to provider classification, including, but not limited to, provider class assignment, the effective date of provider class assignment, or qualifying determinations.

4. The department shall utilize an interim payment process, whereby interim directed payments will be calculated based on provider class assignment utilizing the data and methodology specified in the applicable section 438.6(c) preprint(s) approved by CMS, in accordance with departmental requirements.

a. Qualifying hospitals shall have no right to an administrative appeal regarding calculation of interim directed payments.

5. The department shall cause interim directed payments to be paid on a quarterly basis to the Healthy Louisiana Medicaid managed care organizations (MCOs), in accordance with departmental requirements.

a. The MCOs shall pay interim directed payments to qualified hospitals within 10 business days of receipt of quarterly interim directed payment information from LDH. If a barrier exists that will not allow the MCO to pay the interim directed payments within 10 business days of receipt, the MCO shall immediately notify LDH. LDH at its sole discretion will determine if penalties for late payment may be waived.

b. The qualifying hospital may request that the MCOs deposit their interim directed payments into a separate bank account owned/held by the qualifying hospital. Interim directed payments shall not be deposited into a bank account that is owned/held by more than one qualifying hospital.

6. In accordance with the applicable section 438.6(c) preprint(s) approved by CMS, federal regulations, and departmental requirements, directed payments must be based on actual utilization and delivery of services during the applicable contract period.

a. Within 12 months of the end of each state fiscal year (SFY), LDH shall perform a reconciliation as specified in the applicable section 438.6(c) preprint approved by CMS and departmental requirements.

i. Qualifying hospitals shall have no right to an administrative appeal regarding any issue related to reconciliation, including, but not limited to, the timing and process.

b. Qualified hospitals are strongly encouraged to submit claims as quickly as possible after SFY end.

7. If a qualifying hospital that is subject to a reconciliation will not be participating in a directed payment arrangement in the future, the qualified hospital shall pay all amounts owed to LDH, if any, within 30 calendar days’ notice of the amount owed, in accordance with departmental requirements.

a. In addition to all other available remedies, LDH has the authority to offset all amounts owed by a qualifying hospital due to a reconciliation against any payment owed to the qualifying hospital, including, but not limited to, any payment owed by the MCOs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:245 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 a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by ensuring continued provider participation in the Medicaid Program.

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, 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 services they already render.

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 December 30, 2022.

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 December 12, 2022. If the criteria set forth in R.S.49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on December 29, 2022 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 December 12, 2022. 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. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Managed Care for Physical and Behavioral Health—Hospital Directed Payments

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will increase state costs by approximately \$818,724,148 for FY 22-23 and \$0 for FY 23-24 and FY 24-25. since the directed

payment models must be approved by the Centers for Medicare and Medicaid Services (CMS) every year. It is anticipated that \$864 (\$432 SGF and \$432 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that implementation of this proposed rule will increase revenue collections from fees and self-generated revenue by approximately \$210,832,631, interagency transfers by approximately \$88,923,665, and statutory dedicated revenue from the Hospital Stabilization Fund and Medical Assistance Trust Fund by approximately \$283,071,165 for FY 22-23 and \$0 for FY 23-24 and FY 24-25. In addition, this proposed rule will increase federal revenue collections by approximately \$1,824,026,923 for FY 22-23 and \$0 for FY 23-24 and FY 24-25. It is anticipated that \$432 will be collected in FY 22-23 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This proposed rule continues the provisions of the September 21, 2022 Emergency Rule, which adopted provisions governing directed payments to qualifying hospitals that participate in the Healthy Louisiana Program and contract with the Medicaid managed care organizations (MCOs) to provide inpatient and outpatient services to MCO enrollees. Implementation of this proposed rule will be beneficial to qualifying hospitals, as it is anticipated to increase payments for hospital services by approximately \$2,642,750,639 for FY 22-23 and \$0 for FY 23-24 and FY 24-25. Since the directed payment models must be approved by CMS every year, at this time, the Department is only authorized to make these payments through June 2023.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2211#058

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

SUMMARY OF WRITTEN COMMENTS

Proposed Rule:	Managed Care for Physical and Behavioral Health – Hospital Directed Payments
Public Hearing Date:	N/A
Docket No. :	N/A
Conducted By:	N/A

[illegible]

John Bel Edwards
GOVERNOR



Dr. Courtney N. Phillips
SECRETARY

State of Louisiana
Louisiana Department of Health
Bureau of Health Services Financing

January 10, 2023

Paul A. Salles
Louisiana Hospital Association
9521 Brookline Ave.
Baton Rouge, LA 70809

Dear Mr. Salles:

RE: Notice of Intent Bureau of Health Services Financing-Managed Care for Physical and Behavioral Health Hospital Directed Payments

This letter is in response to your correspondence regarding the Notice of Intent for Bureau of Health Services Financing-Managed Care for Physical and Behavioral Health Hospital Directed Payments which was published in the November 20, 2022 edition of the *Louisiana Register*.

The Notice of Intent proposes to establish regulations in regards to the hospital directed payment program. Your concerns have been reviewed by the Louisiana Department of Health. After giving due consideration to the issues noted in your correspondence, the decision has been made to continue with the provisions of the November 20th Notice of Intent as published in the *Louisiana Register*.

I would like to thank you for taking the time to provide comments and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

Should you have any questions or comments regarding Medicaid administrative rulemaking activity you may contact Veronica Dent, Medicaid Program Manager, at 225-342-3238 or by email to Veronica.Dent@la.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tara A. LeBlanc".

Tara A. LeBlanc
Medicaid Executive Director

TAL/KHB/KS

c: Daniel Cocran, Medicaid Deputy Director



State of Louisiana
Louisiana Department of Health
Office of the Secretary

January 10, 2023

Via Statutorily Prescribed Email

To: The Honorable Fred H. Mills, Jr., Chairman, Senate Health & Welfare Committee
The Honorable Larry Bagley, Chairman, House Health & Welfare Committee

From: Dr. Courtney N. Phillips
Secretary

A handwritten signature in blue ink, appearing to read "C. Phillips", is written over the "From:" line.

Re: Second Report to LAC 50:V.Chapter 75 – Outpatient Hospital Services – Urban
Metropolitan Statistical Area Facility – New Orleans Area

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the Outpatient Hospital Services – Urban Metropolitan Statistical Area Facility – New Orleans Area, LAC 50:V.Chapter 75.

A Notice of Intent on the proposed amendments was published in the November 20, 2022 issue of the *Louisiana Register* (LR 48:2848). No written comments were received and there was no request for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the November 20, 2022, Notice of Intent when it is published as a final rule in the February 20, 2023, issue of the *Louisiana Register*.

Please contact Debbie Gough, Debbie.Gough@la.gov, and Tizi Robinson, Tizi.Robinson@la.gov, if you have any questions or require additional information about this matter.

Cc: Tara LeBlanc, Medicaid Director, LDH
Shannon Bibbins, Medicaid Deputy Director, LDH
Daniel Cocran, Medicaid Deputy Director, LDH
Veronica Dent, Medicaid Program Manager, LDH
Bethany Blackson, Legislative Liaison, LDH
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Outpatient Hospital Services—Urban Metropolitan Statistical Area Facility—New Orleans Area (LAC 50:V.Chapter 75)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:V.Chapter 75 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 promulgated an Emergency Rule which adopted provisions to establish the criteria for an acute care hospital to qualify as an urban metropolitan statistical area (MSA) facility—New Orleans area and the reimbursement methodology for the provision of outpatient services (*Louisiana Register*, Volume 48, Number 10). This proposed

Rule is being promulgated to continue the provisions of the October 5, 2022 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospital Services

Chapter 75. Urban Metropolitan Statistical Area (MSA) Facility—New Orleans Area

§7501. Qualifying Criteria

A. In order to qualify as an urban metropolitan statistical area (MSA) facility—New Orleans area, effective October 5, 2022, a hospital must:

1. be designated a non-rural hospital service district located in LDH region 1, with a facility type code of acute, Medicaid enrolled, with an original hospital license date before July 13, 2014, but after July 1, 2014, located in zip code 70127;

2. be a hospital that is located in an MSA as defined by United States Office of Management and Budget;

3. have an operational emergency room; and

4. not add additional locations under this license, without prior written approval of the department.

- a. The addition of any off-site campus, beyond an outpatient primary care clinic, to the license of this hospital will invalidate the provisions of this reimbursement methodology.

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:

§7503. Reimbursement Methodology

A. Payments for outpatient services to qualifying urban MSA hospitals—New Orleans area who meet all of the criteria in §7501 shall be made as follows:

1. Outpatient Surgery. The reimbursement amount for outpatient hospital surgery services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost as calculated through the cost report settlement process.

2. Clinic Services. The reimbursement amount for outpatient clinic services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost as calculated through the cost report settlement process.

3. Laboratory Services. The reimbursement amount for outpatient clinical diagnostic laboratory services shall be the Medicaid fee schedule amount on file for each service.

4. Rehabilitation Services. The reimbursement amount for outpatient rehabilitation services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost as calculated through the cost report settlement process.

5. Other Outpatient Hospital Services. The reimbursement amount for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services, and outpatient hospital facility fees shall be an interim payment equal to 95 percent of allowable Medicaid cost as calculated through the cost report settlement process.

B. The department may review all above provisions every three years, at a minimum, to evaluate continuation of these enhanced reimbursements.

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 a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by ensuring continued provider participation in the Medicaid Program.

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 Emergency Rule has been considered. It is anticipated that this Emergency Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

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 December 30, 2022.

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 December 12, 2022. If the criteria set forth in R.S.49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on December 29, 2022 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 December 12, 2022. 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. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Outpatient Hospital Services
Urban Metropolitan Statistical Area Facility
New Orleans Area**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will result in estimated programmatic costs of approximately \$1,411,843 for FY 22-23, \$2,073,793 for FY 23-24, and \$2,073,793 for FY 24-25. It is anticipated that \$756 (\$378 SGF and \$378 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed and final rule.

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

It is anticipated that implementation of this proposed rule will increase federal revenue collections by approximately \$3,384,920 for FY 22-23, \$4,320,883 for FY 23-24, and \$4,320,883 for FY 24-25. It is anticipated that \$378 will be collected for the federal share of the expense for promulgation of the proposed and final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This proposed rule continues the provisions of the October 5, 2022 Emergency Rule, which adopted provisions to establish the criteria for an acute care hospital to qualify as an urban metropolitan statistical area (MSA) facility-New Orleans area and the reimbursement methodology for the provision of outpatient services. This proposed rule will benefit Medicaid beneficiaries by ensuring continued access to a New Orleans area urban MSA facility. This proposed rule is anticipated to increase Medicaid payments to a qualifying hospital by approximately \$4,796,007 for FY 22-23, \$6,394,676 for FY 23-24, and \$6,394,676 for FY 24-25, which will assist the hospital in achieving financial viability and continuing operations so vital healthcare services remain available.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2211#059

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office