

**NOTICE OF INTENT****Department of Health  
Bureau of Health Services Financing****Disproportionate Share Hospital Payments  
Northern Area Psychiatric Hospitals  
(LAC 50:V.2503 and 2721)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:V.2503 and adopt §2721 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.

Act 447 of the 2023 Regular Session of the Louisiana Legislature allocates funds to the Department of Health for the creation of a new disproportionate share hospital (DSH) pool to pay for the uncompensated care costs of inpatient psychiatric facilities with an academic training mission for services provided to uninsured and low-income individuals.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing DSH payments to establish the qualification criteria and methodology for payments for the uncompensated care costs of inpatient psychiatric hospitals located in the northern area of the state with an academic training mission for services provided to uninsured and low-income individuals from the payment pool created in accordance with Act 447.

**Title 50****PUBLIC HEALTH—MEDICAL ASSISTANCE****Part V. Hospital Services****Subpart 3. Disproportionate Share Hospital Payments****Chapter 25. Disproportionate Share Hospital Payment Methodologies****§2503. Disproportionate Share Hospital Qualifications**

A. - A.11. ...

12. be a major medical center located in the southeastern area of the state as defined in §2719.A;

13. be a psychiatric hospital located in the northern area of the state as defined in §2721.A; and

14. effective July 1, 1994, must also have a Medicaid inpatient utilization rate of at least 1 percent.

**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 34:655 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3294 (December 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 43:962 (May 2017), LR 45:1763 (December 2019), LR 50:

**Chapter 27. Qualifying Hospitals****§2721. Psychiatric Hospitals Located in the Northern Area of the State**

A. Effective for dates of service on or after February 20, 2024, hospitals qualifying for payments as psychiatric hospitals located in the northern area of the state shall meet the following criteria:

1. be a private, non-rural freestanding psychiatric hospital located in Department of Health administrative regions 7 or 8; and

2. have a current executed academic affiliation agreement for purposes of providing graduate medical education and training to at least five documented intern and resident full time equivalents (FTEs) annually.

a. the affiliation agreement must be with a medical school located in Louisiana;

b. the intern and resident FTE count must be included on the Medicare Medicaid cost report annually on worksheet S-3, column 9; and

c. the hospital must be listed as a graduate medical education program training site on the Accreditation Council for Graduate Medical Education website.

B. Payment Methodology. Effective for dates of service on or after February 20, 2024, each qualifying hospital shall be paid a DSH adjustment payment which is the pro rata amount calculated by dividing their hospital specific allowable uncompensated care costs by the total allowable uncompensated care costs for all hospitals qualifying under this category and multiplying by the funding appropriated by the Louisiana Legislature in the applicable state fiscal year for this category of hospitals.

1. Costs, patient specific data and documentation that qualifying criteria is met shall be submitted in a format specified by the department.

2. Costs and lengths of stay shall be reviewed by the department for reasonableness before payments are made.

3. Aggregate DSH payments for hospitals that receive payment from this category, and any other DSH category, shall not exceed the hospital's specific DSH limit. If payments calculated under this methodology would cause a hospital's aggregate DSH payment to exceed the limit, the payment from this category shall be capped at the hospital's specific DSH limit.

4. A pro rata decrease, necessitated by conditions specified in §2501.B.1 above for hospitals described in this Section, will be calculated based on the ratio determined by dividing the hospital's uncompensated costs by the uncompensated costs for all of the qualifying hospitals described in this Section, then multiplying by the amount of disproportionate share payments calculated in excess of the federal DSH allotment.

a. Additional payments shall only be made after finalization of the Centers for Medicare and Medicaid Services' (CMS) mandated DSH audit for the state fiscal year. Payments shall be limited to the aggregate amount recouped from the qualifying hospitals described in this Section, based on these reported audit results. If the hospitals' aggregate amount of underpayments reported per the audit results exceeds the aggregate amount overpaid, the payment redistribution to underpaid hospitals shall be paid on a pro rata basis calculated using each hospital's amount

underpaid, divided by the sum of underpayments for all of the hospitals described in this Section.

**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 50:

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 may have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972, by providing continued access to vital inpatient psychiatric services.

#### **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 total direct and indirect cost to the provider to provide the same level of service, but may enhance the provider's ability to provide the same level of service as described in HCR 170, since this proposed Rule provides payments to qualifying inpatient psychiatric hospitals for services rendered to uninsured and low-income individuals.

#### **Public Comments**

Interested persons may submit written comments to Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on January 2, 2024.

#### **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 11, 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 December 28, 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 December 11, 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

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

#### **RULE TITLE: Disproportionate Share Hospital Payments—Northern Area Psychiatric Hospitals**

#### **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 \$647,032 for FY 23-24, \$639,800 for FY 24-25, and \$639,800 for FY 25-26. It is anticipated that \$864 (\$432 SGF and \$432 FED) will be expended in FY 23-24 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule amends the provisions governing disproportionate share hospital (DSH) payments to establish the qualification criteria and methodology for payments for the uncompensated care costs of inpatient psychiatric hospitals located in the northern area of the state with an academic training mission for services provided to uninsured and low-income individuals from the payment pool created in accordance with Act 447 of the 2023 Regular Session of the Louisiana Legislature.

#### **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 \$1,353,832 for FY 23-24, \$1,360,200 for FY 24-25, and \$1,360,200 for FY 25-26. It is anticipated that \$432 will be collected in FY 23-24 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, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed rule amends the provisions governing disproportionate share hospital (DSH) payments to establish the qualification criteria and methodology for payments for the uncompensated care costs of inpatient psychiatric hospitals located in the northern area of the state with an academic training mission for services provided to uninsured and low-income individuals from the payment pool created in accordance with Act 447 of the 2023 Regular Session of the Louisiana Legislature. This proposed rule will ensure that vital inpatient psychiatric services for low-income patients continue to be provided by psychiatric hospitals in northern Louisiana. Implementation of this proposed rule is anticipated to increase Medicaid payments to qualifying inpatient psychiatric hospitals by \$2,000,000 in FY 23-24, \$2,000,000 in FY 24-25, and \$2,000,000 in FY 25-26.

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

This rule has no known effect on competition and employment.

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Interim Medicaid Executive Director  
2311#034

Patrice Thomas  
Deputy Fiscal Officer  
Legislative Fiscal Office