

NOTICE OF INTENT

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

**Nursing Facilities
Reimbursement Methodology
Pass Through Rate Increase
(LAC 50:II.20005)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:II.20005 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 and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for nursing facilities in order to reduce the per diem rates paid to non-state nursing facilities (*Louisiana Register*, Volume 41, Number 5).

Act 675 of the 2016 Regular Session of the Louisiana Legislature directed the Department of Health to increase provider fees for nursing facilities. In compliance with Act 675, the department published Emergency Rules which amended the provisions governing provider fees in order to increase the provider fee for nursing facilities, and amended the provisions governing the reimbursement methodology for nursing facilities to include the provider fee increase in the nursing facility

pass through rate (*Louisiana Register*, Volume 42, Number 9).
This proposed Rule is being promulgated to continue the
provisions of the September 1, 2016 Emergency Rule.

Title 50

**PUBLIC HEALTH—MEDICAL ASSISTANCE
Part II. Nursing Facilities
Subpart 5. Reimbursement**

Chapter 200. Reimbursement Methodology

§20005. Rate Determination

[Formerly LAC 50:VII.1305]

A. - D.4.b. ...

c. Effective September 1, 2016, the pass
through rate shall be increased as a result of the provider fee
increase on nursing facility days from \$10.00 per day up to
\$12.08 per day per occupied bed.

D.5. - Q. ...

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 28:1791 (August 2002), amended LR 31:1596
(July 2005), LR 32:2263 (December 2006), LR 33:2203 (October
2007), amended by the Department of Health and Hospitals, Bureau
of Health Services Financing, LR 36:325 (February 2010),
repromulgated LR 36:520 (March 2010), amended LR 36:1556 (July

2010), LR 36:1782 (August 2010), LR 36:2566 (November 2010), LR 37:902 (March 2011), LR 37:1174 (April 2011), LR 37:2631 (September 2011), LR 38:1241 (May 2012), LR 39:1286 (May 2013), LR 39:3097, 3097 (November 2013), LR 41:707 (April 2015), LR 41:949 (May 2015), amended 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 enhance the provider's ability to provide the same level of service since this proposed Rule increases the payment 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. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, November 29, 2016 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: Robert Andrepont Dept.: Health
Phone: 342-8769 Office: Bureau of Health Services
Financing

Return P.O. Box 91030
Address: Baton Rouge, LA Rule Title: Nursing Facilities
Reimbursement Methodology
Pass Through Fee Increase

Date Rule Takes Effect: September 1, 2016

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 of \$9,857,108 for FY 16-17, \$19,832,067 for FY 17-18 and \$19,951,060 FY 18-19. It is anticipated that \$432 (\$216 SGF and \$216 FED) will be expended in FY 16-17 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 62.26 percent in FY 16-17 and 62.45 percent in FY 17-18.

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

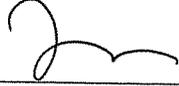
It is anticipated that the implementation of this proposed rule will increase statutory dedicated revenue collections by approximately \$9,856,892 for FY 16-17, \$19,832,067 for FY 17-18 and \$19,951,060 for FY 18-19. In addition, it is anticipated that federal revenue collections will increase by approximately \$16,261,215 for FY 16-17, \$32,717,130 for FY 17-18 and \$32,913,434 for FY 18-19. It is anticipated that \$216 will be expended in FY 16-17 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 62.26 percent in FY 16-17 and 62.45 percent in FY 17-18.

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

This proposed Rule continues the provisions of the September 1, 2016 Emergency Rule which amends the provisions governing nursing facilities reimbursement to include the provider fee increase in the nursing facility pass through rate in compliance with Act 675. It is anticipated that implementation of this proposed rule will increase programmatic expenditures for nursing facility services by approximately \$26,117,891 for FY 16-17, \$52,549,197 for FY 17-18 and \$52,864,494 for FY 18-19.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

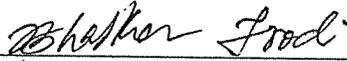
It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.



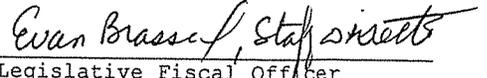
Signature of Agency Head
or Designee

Jen Steele, Medicaid Director

Typed name and Title of
Agency Head or Designee



DHH/BHSF Budget Head



Legislative Fiscal Officer
or Designee

10/10/16

Date of Signature

10/10/16

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 continues the provisions of the September 1, 2016 Emergency Rule which amends the provisions governing nursing facilities reimbursement to include the provider fee increase in the nursing facility pass through rate in compliance with Act 675.

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

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend the provisions governing the reimbursement methodology for nursing facilities in order to reduce the per diem rates paid to non-state nursing facilities (Louisiana Register, Volume 41, Number 5).

Act 675 of the 2016 Regular Session of the Louisiana Legislature directed the Department of Health to increase provider fees for nursing facilities. In compliance with Act 675, the department published Emergency Rules which amended the provisions governing provider fees in order to increase the provider fee for nursing facilities and amend the provisions governing nursing facilities reimbursement to include the provider fee increase in the nursing facility pass through rate (Louisiana Register, Volume 42, Number 9). This proposed Rule is being promulgated to continue the provisions of the September 1, 2016 Emergency Rule.

- 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 \$26,118,323 for FY 16-17, \$52,549,197 for FY 17-18 and \$52,864,494 for FY 18-19. In FY 16-17, \$432 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) _____ If yes, attach documentation.
(b) x If no, provide justification as to why this rule change should be published at this time.

Act 17 of the 2016 Regular Session of the Louisiana Legislature allocated funds to the Department of Health and Hospitals to provide reimbursements to providers for Medicaid covered services. This rule change should be published at this time to ensure recipients will have continued access to nursing facility services.

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 16-17	FY 17-18	FY 18-19
PERSONAL SERVICES			
OPERATING EXPENSES	\$432	\$0	\$0
PROFESSIONAL SERVICES			
OTHER CHARGES	\$26,117,891	\$52,549,197	\$52,864,494
REPAIR & CONSTR.			
POSITIONS (#)			
TOTAL	\$26,118,323	\$52,549,197	\$52,864,494

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 16-17, \$432 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 16-17	FY 17-18	FY 18-19
STATE GENERAL FUND	\$216	\$0	\$0
SELF-GENERATED			
FEDERAL FUND	\$16,261,215	\$32,717,130	\$32,913,434
OTHER (Specify)	\$9,856,892	\$19,832,067	\$19,951,060
Total	\$26,118,323	\$52,549,197	\$52,864,494

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 16-17	FY 17-18	FY 18-19
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
RESTRICTED FUNDS*	\$9,856,892	\$19,832,067	\$19,951,060
FEDERAL FUNDS	\$16,261,215	\$32,717,130	\$32,913,434
LOCAL FUNDS			
Total	\$26,118,107	\$52,549,197	\$52,864,494

**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 16-17, \$216 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 continues the provisions of the September 1, 2016 Emergency Rule which amends the provisions governing nursing facilities reimbursement to include the provider fee increase in the nursing facility pass through rate in compliance with Act 675.

- 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 nursing facility services by approximately \$26,117,891 for FY 16-17, \$52,549,197 for FY 17-18 and \$52,864,494 for FY 18-19.

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 and employment.