



State of Louisiana

Louisiana Department of Health
Office of the Secretary

To: The Honorable John Bell Edwards, Governor, State of Louisiana (Via Hand Delivery)
The Honorable Jeff Landry, Attorney General, Louisiana Department of Justice (Via Hand Delivery)
The Honorable John A. Alario, Jr., President, Louisiana Senate (apa.senatepresident@legis.la.gov)
The Honorable Taylor F. Barras, Speaker, Louisiana House of Representatives (apa.house speaker@legis.la.gov)
Catherine Brindley, Editor, *Louisiana Register* (reg.submission@la.gov)
Senate Health and Welfare Committee (apa.s-h&w@legis.la.gov)
House Health and Welfare Committee (apa.h-hw@legis.la.gov)

From: Rebekah E. Gee MD, MPH, Secretary, Louisiana Department of Health

Date: June 27, 2019 *Cindy Rhee*

Re: Justification of Promulgation of Emergency Rule
LAC 50:V.954 – Inpatient Hospital Services Reimbursement Methodology
Outlier Pool Rate Increase

MEMORANDUM

In accordance with the Administrative Procedure Act (La. R.S. 40: 950 *et seq.*) as amended, the Louisiana Department of Health, Bureau of Health Services Financing, is submitting the following emergency rule that amends LAC 50:V.954.

This action is being taken as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act under the mandate of House Concurrent Resolution 5 (HCR 5) 2019 Louisiana Legislature. Due to the effective date in HCR 5 being for these payments made after July 1, 2019, there is a need for the department to issue an emergency rule to come into compliance with HCR 5. If not effective, then the payments made will be limited to the existing outlier pool cap and the department would be in violation of HCR 5.

Should you have any questions or require additional information regarding this matter, please do not hesitate to contact Andrew Perilloux at Andrew.perilloux@la.gov or (225) 342-3060.

Attachments: Emergency Rule – LAC 50:V.954

DECLARATION OF EMERGENCY

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

**Inpatient Hospital Services
Reimbursement Methodology
Outlier Pool Rate Increase
(LAC 50:V.954)**

The Department of Health, Bureau of Health Services Financing amends LAC 50:V.954 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

House Concurrent Resolution 5 (HCR 5) of the 2019 Regular Session of the Louisiana Legislature directed the Department of Health, Bureau of Health Services Financing to set the catastrophic outlier pool aggregate payment amount in Medical Assistance Program to be no less than fifty percent of the amount of the total hospital outlier claims submitted with dates of service in state fiscal year 2017-2018. In order to comply with the requirements of HCR 5, the department amends the provisions governing the reimbursement methodology for inpatient hospital services to increase outlier pool payments.

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued access to inpatient hospital services. It is estimated that implementation of this Emergency Rule will increase programmatic expenditures in the Medicaid Program by \$11,092,179 for fiscal year 2019-2020.

Effective July 1, 2019, the Department of Health, Bureau of Health Services Financing amends the provisions governing inpatient hospital services reimbursement to increase outlier pool payments.

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

§954. Outlier Payments

A. - I.2. ...

J. Effective on or after July 1, 2019, the outlier pool for admissions during SFY 2019 and subsequent state fiscal years shall cover eligible claims and shall not exceed \$21,092,179 annually. Payment shall be the costs of each hospital's eligible claims less the prospective payment, divided by the sum of all eligible claims costs in excess of payments, multiplied by \$21,092,179.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:519 (March 2010), amended LR 39:3096 (November 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

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.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH

Secretary

Cindy Rhee
6.27.19

PROVIDER IMPACT STATEMENT

Inpatient Hospital Services
Reimbursement Methodology
Outlier Pool Rate Increase

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, 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 Emergency Rule increases payments to providers for the same services they already render.

Rebekah E. Gee MD, MPH

Secretary

Cindy Riva
6.27.19