**Bobby Jindal**
GOVERNOR

**Kathy H. Kliebert**
SECRETARY

# State of Louisiana

Department of Health and Hospitals
Bureau of Health Services Financing

September 20, 2013

Division of Medicaid & Children's Health Operations
Dallas Regional Office
Attention: Bill Brooks
1301 Young Street, Room #833
Dallas, Texas 75202

RE: Louisiana Title XIX State Plan
Transmittal No. 13-28

Dear Mr. Brooks:

Please refer to our proposed amendment to the Louisiana Medicaid State Plan submitted under transmittal number (TN) 13-28 with a proposed effective date of October 1, 2013. This amendment proposes to revise the reimbursement methodology for disproportionate share hospital (DSH) payments for non-state owned hospitals in order to encourage them to take over the operation and management of state-owned and operated hospitals that have terminated or reduced services. The effect of this amendment is that three hospitals located in Shreveport, Monroe and Bogalusa qualifies for DSH payments. We are providing the following additional information as requested in your correspondence dated September 5, 2013 which stopped the clock on this transmittal.

**FORM- 179**

1. Please be aware that submitted SPA 13-25 also proposes to amend the reimbursement methodology for disproportionate share hospital (DSH) payments for non-state owned hospitals in order to encourage them to take over the operation and management of state-owned and operated hospitals that have terminated or reduced services. Louisiana SPA 13-25 may have to be resolved prior to CMS taking action on the SPA 13-28.

   **Response: Duly noted.**

2. Form 179 - Box 7: No financial impact was noted due to the proposed revisions. Please provide a detailed analysis of how this determination was made and provide supporting documentation of the calculation.

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**Response: The fiscal impact has been revised. The total fiscal impact for this SPA for SFY 2014 is $190,185,834, and total annual fiscal impact for SFY 2015 is $264,894,803. The State requests a pen and ink change to Block 7 of the Form 179. The revised fiscal worksheet is attached. The FFY for 2014 is $167,973,886 and FFY for 2015 is $164,526,162. The supporting documents are attached.**

**PUBLIC NOTICE**

3. Please provide information demonstrating that the changes proposed in SPA 13-28 comport with public process requirements at section 1902(a)(13)(A) of the Act. Please provide copies of the legislation authorizing the proposed changes.

    **Response: Public process requirements will be satisfied through the administrative rulemaking process giving public notice of the methodology changes on or before September 30, 2013. The State shall provide CMS proof of publication immediately after the public notice has been published.**

**TRANSFER OF VALUE AGREEMENTS**

4. CMS must have copies of all signed standard Cooperative Endeavor Agreements or agreements under active consideration. In addition, please provide copies of all signed Intergovernmental Transfers (IGTs), management agreements, MOUs, management contracts, loan agreements, and any other agreements that would present the possibility of a transfer of value between the two entities. Please disclose all entities with which the State is in discussions concerning the actions proposed under this SPA and the intended outcome of such discussions

   CMS has concerns that such financial arrangements meet the definition of non-bona fide provider donations as described in federal statute and regulations.

   Detailed information needs to be provided to determine whether the dollar value of the contracts between private and public entities had any fair market valuation. There can be no transfer of value or a return or reduction of payments reflected in these agreements.

   Additionally, whether the State is a party to the financial arrangement or not, the State is ultimately responsible to ensure that the funding is appropriate. The State would be responsible for refunding any FFP if CMS finds the funding source inappropriate.

   **Response: The CEAs for Biomedical Research Foundation (Shreveport and Monroe), and Our Lady of Angels Hospitals (Bogalusa) have not been fully executed to date. However, it is anticipated that these documents will be executed by October 1, 2013 and DHH will forward the fully executed agreements once they are available. DHH worked with the private partners to determine estimated utilization of services to be provided by the partners under the terms and conditions of the CEA. All lease agreements were analyzed by third party professionals to ensure that they met fair market value of the property/asset to be leased. There are no loan agreements involved in the CEAs. Appraisals have been included.**

5. Did the State receive any feedback or complaints from the public regarding the Cooperative Endeavor Agreement? If so, what were the concerns and how were they addressed and resolved?

   **Response: The State has not received any feedback or complaints from the public regarding the Cooperative Endeavor Agreements. A sampling of news articles and opinions are presented below:**

   http://theadvocate.com/news/6861287-123/legislators-look-at-north-louisiana

   http://www.thenewsstar.com/article/20130414/OPINION01/304140006/The-best-chance-E-Conway

   http://www.shreveporttimes.com/article/20130424/OPINION/304240015

## INTERGOVERNMENTAL TRANSFERS (IGT)

6. How many entities does the State anticipate will participate in this arrangement? Please submit a list of all participating hospitals, all transferring entities doing the IGT, and the dollar amount that the transferring entities will IGT. Please describe how the hospitals are related/affiliated to the transferring entity and provide the names of all owners of the participating hospitals.

   **Response: The two entities are named above (see response # 3). There will be no IGTs with this amendment. The detailed ownership information for this hospital (including social security numbers) has been gathered by and is kept on file with the Department's Provider Enrollment Unit.**

7. What is the source of all funds that will be transferred? Are they from tax assessments, special appropriations from the State to the county/city or some other source? Please provide the county/city legislation authorizing the IGTs.

   **Response: Not applicable as this amendment does not involve IGTs.**

8. What are the sources of IGT funds (for example: tax revenues, loan or other)? Please demonstrate that the State has permissible sources of funding under 1903(w)(6)(A).

   **Response: Not applicable as this amendment does not involve IGTs.**

9. Does the state agree to provide certification from the transferring entities that the IGTs are voluntary?

   **Response: Not applicable as this amendment does not involve IGTs.**

10. Section 1902(a)(2) of the Act provides that the lack of adequate funds from local sources will not result in lowering the amount, duration, scope, or quality of care and services available under the plan. Please explain how this proposal complies with this provision.

**Response: Not applicable as there are no local sources of funding for this amendment.**

## EFFICIENCY, ECONOMY, AND QUALITY OF CARE

11. SPA amendment LA13-025 proposes to establish supplemental payments for private-public partnerships for non-state-owned and operated hospitals. Section 1902(a) (30) (A) of the Act requires that payment rates must be consistent with "efficiency, economy and quality of care." Please justify how the establishment of payments is consistent with the principles of "efficiency, economy, and quality of care."

    **Response: LA SPA 13-28 proposes to establish DSH payments for private-public partnerships in order to continue to maintain the current level of services under the plan. Residents in each of the three areas of Louisiana covered in this proposed plan amendment have historically had local access to medical services provided by a state-owned and operated hospital that was paid Medicaid DSH since July 1, 1988. The CEAs will continue provision of these medical services to residents in each area through non-state owned hospitals. This plan amendment proposes to continue the Medicaid DSH payments to the non–state owned hospitals that will now provide these medical services. The population served by the impacted hospitals is disproportionately poor and includes a number of frail, elderly, uninsured, and Medicaid recipients who have transportation challenges. If medical services were discontinued in these local areas, patients would be required to travel further and possibly be put on waiting lists to receive medical care that would most likely increase the costs of accessing the care and the severity of illness of the patient by the time that treatment is obtained. Therefore, providing local efficient healthcare at a lower cost and with a high quality for local residents, in our view, is consistent with the principles set forth in Section 1902(a)(30)(A) of the Social Security Act.**

## SIMPLICITY OF ADMINISTRATION

12. Section 1902(a) (19) of the Act requires that care and services will be provided with "simplicity of administration and the best interest of the recipients." Please explain why these amendments are consistent with simplicity of administration and in the best interest of the recipients.

    **Response: It is anticipated that Medicaid services provided through the CEAs will meet or exceed those services previously provided to Louisiana Medicaid recipients through a State-run facility. In order to ensure a seamless transition, each of the private partners performed outreach to the patients and others throughout the community to ensure that those relying on the services provided at the formerly State-run facility would still receive those same services after the private-partner took over operation and management.**

**LEGISLATION**

13. Please clarify if the State or a Hospital Service District has issued any proposals or enacted any legislation to support the public-private partnerships. Please submit that documentation for our review

    **Response: There was not any RFPs or legislation enacted to support the public-private partnerships. Each CEA was submitted and reviewed by the Joint Legislative Committee on the Budget of the Louisiana Legislature.**

**STATE PLAN LANGUAGE**

14. The State plan methodology must be comprehensive enough to determine the required level of payment and the FFP to allow interested parties to understand the rate setting process and the items and services that are paid through these rates. Claims for federal matching funds cannot be based upon estimates or projections. Please add language that describes the actual historical utilization and trend factors utilized in the calculation.

    **Response: The language in the SPA has been revised. Please substitute the attached revised pages for the pages originally submitted for this SPA.**

15. The proposed DSH payment methodologies on pages 10 and 11 are not comprehensively described. Please add language that fully explains how 100 percent of uncompensated costs are to be calculated and how the annual payment amount will be determined.

    The plan language should fully describe the cost and patient specific data the hospitals are required to submit, what time period the data is to be from, and when the data is to be submitted by the hospitals. The plan language should also fully describe how the Department will review costs and lengths of stay for reasonableness, how the costs and lengths of stay will be determined to be reasonable, and how the results of the reasonableness review will be used to adjust payments.

    **Response: The language in the SPA has been revised. Please substitute the attached revised pages for the pages originally submitted for this SPA.**

16. The following are additional items that need to be made to the proposed reimbursement methodology.

    a. The reimbursement methodology and these types of funding arrangements are still under review.

       **Response: Duly noted.**

    b. Please remove CEA from Attachment 4.19-A, Item 1, page 10k(10) and (11).

       **Response: The CEA language has been removed in the revised SPA language.**

c. Please specify the private hospital that will be receiving the DSH payments in the State plan not the non-state owned facility.

**Response: The SPA language has been revised and the private hospitals are named in the SPA language.**

d. The State should substitute the word 'private' instead of using the word 'non-state'. If the State feels that non-state facilities would qualify in the future, then the following are a couple of examples.

***private and*** non-state owned and operated.....

OR

non-state ***(includes private)*** owned and operated.....

**Response: The language has been revised to state, "private and non-state operated hospitals."**

e. Please include a paragraph on not exceeding the hospital specific DSH limit. The State can cut/paste paragraph from LA 12-62. This language should be included under item c.

Paragraph from 12-62 states the following...

*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...*

**Response: This language has been included in the revised SPA page.**

**ADDITIONAL**

17. Are the hospitals required to provide a specific amount of health care service to low income and needy patients? Is this health care limited to hospital only or will health care be provided to the general public? What type of health care covered services will be provided?

**Response: There is no linkage between Health Related Care or Service obligations and the public-private partnership. Agreements are not related to any other health services provided other than already billed Medicaid hospital services.**

18. How did the State determine that the Medicaid provider payments are sufficient to enlist enough providers to assure access to care and services in Medicaid at least to the extent that care and services are available to the general population in the geographic area?

**Response: We do not anticipate service reductions. The agreed upon payments to the private partners are sufficient to assure that they will provide access to care and services for the Louisiana Medicaid population to the same extent that they provide**

**care and services to the general population within the respective area that the private-partner's current facility services.**

19. How were providers, advocates and beneficiaries engaged in the discussion around rate modifications? What were their concerns and how did the State address these concerns? Was there any direct communication (bulletins, town hall meetings, etc.) between the State and providers regarding the reductions proposed via this amendment?

    **Response: There are no rate modifications contained in the current SPA. The State went through the normal public process in promulgating the Rule. The CEA and its amendment went through public discussions at the legislature in the Joint Legislative Committee on the Budget where public input was received.**

20. Is the State modifying anything else in the State plan which will counterbalance the impact on access that may be caused by the decrease in rates (e.g. increasing scope of services that other provider types may provide or providing care in other settings)?

    **Response: The State does not anticipate the need to counterbalance the impact of this State Plan amendment as rates are not being decreased.**

21. Over the last couple of years, Louisiana has both increased and decreased rates for inpatient hospitals. What is the cumulative, net impact of the rate reductions and increases for inpatient hospitals services since SFY 2008?

    **Response: The cumulative rate changes and UPL payments from FY 2009 to FY 2013 have previously been submitted to CMS with the following SPAs 12-63, 13-02, and 13-21.**

22. Please provide a list of facilities closings and services that are being cut by LSU.

    **Response: There will not be any facilities closing as a result of these CEAs. The partners have agreed to provide "Key Service Lines" through these arrangements, which were services that the LSU faculty and staff were providing to the Medicaid population prior to the CEA. Each partner has also adopted LSU's "Charity Care" policy through the CEA. Therefore, it is expected that the same level of services (and possibly more) will still be available to the Medicaid population through these CEAs.**

<u>**FUNDING QUESTIONS**</u>

The following questions are being asked and should be answered in relation to all payments made to all providers under Attachment 4.19-A of your State plan, including payments made outside of those being amended with this SPA. Please be aware that some of the questions have been modified. If you have already provided this information in response to other requests for additional information, you may refer us to that response. Please indicate the SPA and date of the response.

1. Section 1903(a)(1) provides that Federal matching funds are only available for expenditures made by States for services under the approved State plan. Do providers receive and retain the total Medicaid expenditures claimed by the State (includes normal per diem, supplemental, enhanced payments, other) or is any portion of the payments returned to the State, local governmental entity, or any other intermediary organization? If providers are required to return any portion of payments, please provide a full description of the repayment process.

   Include in your response a full description of the methodology for the return of any of the payments, a complete listing of providers that return a portion of their payments, the amount or percentage of payments that are returned and the disposition and use of the funds once they are returned to the State (i.e., general fund, medical services account, etc.)

   **Response: Please see the response for LA SPA 12-63 dated April 25, 2013.**

2. Section 1902(a)(2) provides that the lack of adequate funds from local sources will not result in lowering the amount, duration, scope, or quality of care and services available under the plan. Please describe how the state share of each type of Medicaid payment (normal per diem, supplemental, enhanced, other) is funded. Please describe whether the state share is from appropriations from the legislature to the Medicaid agency, through intergovernmental transfer agreements (IGTs), certified public expenditures (CPEs), provider taxes, or any other mechanism used by the state to provide state share. Note that, if the appropriation is not to the Medicaid agency, the source of the state share would necessarily be derived through either an IGT or CPE. In this case, please identify the agency to which the funds are appropriated. Please provide an estimate of total expenditure and State share amounts for each type of Medicaid payment. If any of the non-federal share is being provided using IGTs or CPEs, please fully describe the matching arrangement including when the state agency receives the transferred amounts from the local government entity transferring the funds. If CPEs are used, please describe the methodology used by the state to verify that the total expenditures being certified are eligible for Federal matching funds in accordance with 42 CFR 433.51(b). For any payment funded by CPEs or IGTs, please provide the following:

   (i) a complete list of the names of entities transferring or certifying funds;
   (ii) the operational nature of the entity (state, county, city, other);
   (iii)the total amounts transferred or certified by each entity;
   (iv)clarify whether the certifying or transferring entity has general taxing authority; and,
   (v) whether the certifying or transferring entity received appropriations (identify level of appropriations).

   **Response: Please see the response for LA SPA 12-63 dated April 25, 2013.**

3. Section 1902(a)(30) requires that payments for services be consistent with efficiency, economy, and quality of care. Section 1903(a)(1) provides for Federal financial participation

to States for expenditures for services under an approved State plan. If supplemental or enhanced payments are made, please provide the total amount for each type of supplemental or enhanced payment made to each provider type.

**Response: Please see the response for LA SPA 12-63 dated April 25, 2013.**

4. Please provide a detailed description of the methodology used by the state to estimate the upper payment limit (UPL) for each class of providers (State owned or operated, non- state government owned or operated, and privately owned or operated). Please provide a current (i.e. applicable to the current rate year) UPL demonstration.

   **Response: Please see the response for LA SPA 12-63 dated April 25, 2013. The UPL demonstration has been updated to include the impact of TN 13-23 and is attached.**

5. Does any governmental provider receive payments that in the aggregate (normal per diem, supplemental, enhanced, other) exceed their reasonable costs of providing services? If payments exceed the cost of services, do you recoup the excess and return the Federal share of the excess to CMS on the quarterly expenditure report?

   **Response: Please see the response for LA SPA 12-63 dated April 25, 2013.**

**Please substitute the attached revised State Plan pages for the pages originally submitted for this State Plan amendment.**

Please consider this a formal request to begin the 90-day clock. It is anticipated that this additional information will be sufficient to result in the approval of the pending plan amendment. We look forward to negotiating with CMS to ensure approval. If further information is required, you may contact Darlene Adams at Darlene.Adams@la.gov or by phone (225)342-3881. We appreciate the assistance of Tamara Sampson in resolving these issues.

Sincerely,

J. Ruth Kennedy
Medicaid Director

Attachments (10)

JRK/DA/jh

c: Ford J. Blunt III, Dallas Regional Office

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

FORM APPROVED
OMB NO. 0938-0193

# TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL

**FOR: HEALTH CARE FINANCING ADMINISTRATION**

1. TRANSMITTAL NUMBER: **13-28**

2. STATE: **Louisiana**

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR
HEALTH CARE FINANCING ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE: **October 1, 2013**

5. TYPE OF PLAN MATERIAL *(Check One)*:

☐ NEW STATE PLAN ☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN ☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT *(Separate Transmittal for each amendment)*

6. FEDERAL STATUTE/REGULATION CITATION:
**42 CFR 447, Subpart E**

7. FEDERAL BUDGET IMPACT:
a. FFY ~~2013~~ 2014 $ 167,973,886
b. FFY ~~2014~~ 2015 $ 164,526,162

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

**Attachment 4.19-A, Item 1, Page 10k (11)**
**Attachment 4.19-A, Item 1, Page 10k (12)**
**Attachment 4.19-A, Item 1, Page 10k (13)**

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(if Applicable)*:

**Same (~~TN 12-14~~) (TN 13-25)**
**None (New Page)**
**None (New Page)**

10. SUBJECT OF AMENDMENT: **The SPA establishes disproportionate share hospital (DSH) payments to hospitals participating in public-private partnership CEAs in Shreveport, Monroe, Bogalusa and Alexandria for their uncompensated care costs.**

11. GOVERNOR'S REVIEW *(Check One)*:

☐ GOVERNOR'S OFFICE REPORTED NO COMMENT
☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL
☒ OTHER, AS SPECIFIED:
**The Governor does not review state plan material.**

12. SIGNATURE OF STATE AGENCY OFFICIAL:

13. TYPED NAME:
**Kathy H. Kliebert**

14. TITLE:
**Secretary**

15. DATE SUBMITTED:
**July 12, 2013**

16. RETURN TO:

**J. Ruth Kennedy, Medicaid Director**
**State of Louisiana**
**Department of Health and Hospitals**
**628 N. 4th Street**
**PO Box 91030**
**Baton Rouge, LA 70821-9030**

**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED:

18. DATE APPROVED:

PLAN APPROVED – ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL:

20. SIGNATURE OF REGIONAL OFFICIAL:

21. TYPED NAME:

22. TITLE:

23. REMARKS:

**The State requests pen and ink changes to block 8 and block 9 as shown above.**

FORM HCFA-179 (07-92)

**3. Houma Area**

a) Effective for dates of service on or after June 24, 2013, Southern Regional Medical Center shall be eligible for payment of 100 percent of net uncompensated costs.
b) Qualifying hospitals shall submit costs and patient specific data in a format specified by the Department. Cost and lengths of stay will be reviewed for reasonableness before payments are made.
c) The first payment of each state fiscal year will be made by October 15 and will be 85 percent of the annual estimate. The remainder of the payment will be made by June 30 of each year.
d) 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. Lake Charles Area**

a) Effective for dates of service on or after June 24, 2013, Southwest Louisiana Hospital Association d/b/a Lake Charles Memorial Hospital shall be eligible for payment of 100 percent of net uncompensated care costs.
b) Qualifying hospitals shall submit costs and patient specific data in a format specified by the Department. Cost and lengths of stay will be reviewed for reasonableness before payments are made.
c) The first payment of each state fiscal year will be made by October 15 and will be 85 percent of the annual estimate. The remainder of the payment will be made by June 30 of each year.
d) 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.

**5. Shreveport Area**

a). Effective October 1, 2013, Biomedical Research Foundation shall be eligible for payment of 100 percent of net uncompensated care costs.

b) Qualifying hospitals shall submit costs and patient specific data in a format specified by the Department. Cost and lengths of stay will be reviewed for reasonableness before payments are made.
c) The first payment of each fiscal year will be made by October 15 and will be 80 percent of the annual estimate. The remainder of the payment will be made by June 30 of each year.
d) 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.

**6. Monroe Area**

a). Effective October 1, 2013, Biomedical Research Foundation shall be eligible for payment of 100 percent of net uncompensated care costs.
b) Qualifying hospitals shall submit costs and patient specific data in a format specified by the Department. Cost and lengths of stay will be reviewed for reasonableness before payments are made.
c) The first payment of each fiscal year will be made by October 15 and will be 80 percent of the annual estimate. The remainder of the payment will be made by June 30 of each year.
d) 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.

**7. Bogalusa Area**

a). Effective January 1, 2014, Our Lady of Angels Hospitals shall be eligible for payment of 100 percent of net uncompensated care costs.
b) Qualifying hospitals shall submit costs and patient specific data in a format specified by the Department. Cost and lengths of stay will be reviewed for reasonableness before payments are made.

c) The first payment will be made by January 15, 2014 and will be 80 percent of the one-half of the annual estimate. The first payment of each subsequent fiscal year will be made by October 15 and will be 80 percent of the annual estimate. The remainder of the payment will be made by June 30 of each year.

d) 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.

**E. (Reserved)**