



State of Louisiana

Louisiana Department of Health
Office of the Secretary

To: The Honorable Jeff Landry, Governor, State of Louisiana (Via Email)
The Honorable Liz Murrill, Attorney General, Louisiana Department of Justice (apa.submission@ag.louisiana.gov)
The Honorable Cameron Henry, President, Louisiana Senate (apa.senatepresident@legis.la.gov)
The Honorable Phillip DeVillier, Speaker, Louisiana House of Representatives (apa.housepeaker@legis.la.gov)
Andrea Trantham, Editor, *Louisiana Administrative Code* (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: Michael Harrington, MBA, MA, Secretary, LDH

Date: December 19, 2024

Re: **Justification of Promulgation of Emergency Rule
Intermediate Care Facilities for Persons with Intellectual Disabilities – Rate
Determination (LAC 50.VII.32903)**

MEMORANDUM

In accordance with the Administrative Procedure Act (La. R.S. 49:950 *et seq.*) as amended, the Louisiana Department of Health is submitting the following emergency rule that amends Intermediate Care Facilities for Person with Intellectual Disabilities – Rate Determination (LAC 50:VII.32903).

Should you have any questions or require additional information regarding this matter, please do not hesitate to contact Jackie Cummings, at Jackie.Cummings2@la.gov.

Attachments: Intermediate Care Facilities for Person with Intellectual Disabilities – Rate Determination (LAC 50:VII.32903)

Cc: Kimberly Sullivan, Medicaid Director, LDH
Brian Bennett, Medicaid Deputy Director, LDH
Catherine Brindley, Medicaid Manager, LDH
Bethany Blackson, Chief of Staff, LDH
Andrea Trantham, *Louisiana Administrative Code* Editor, Office of the State Register

DECLARATION OF EMERGENCY

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

**Intermediate Care Facilities for Persons
with Intellectual Disabilities
Rate Determination
(LAC 50:VII.32903)**

The Department of Health, Bureau of Health Services Financing amends LAC 50:VII.32903 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. 49:962 and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Private Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID) receive a reimbursement rate based on utilization and resident acuity. These rates are calculated using cost components appropriate for an economic and efficient ICFs/IID providing quality service. The resident per diem rates represent the best judgment of the state to provide reasonable and adequate reimbursement required to cover the costs of economic and efficient operation of ICFs/IID.

The existing provision allowed private ICFs/IID that downsized from over 100 beds to less than 35 beds prior to December 31, 2010, without the benefit of a cooperative endeavor

agreement (CEA) or transitional rate and that incurred excessive capital costs, to have their per diem rates (excluding provider fees) increased by a percent equal to the percent difference of per diem rates (excluding provider fees and dental pass through). The applicable differential was set to expire on December 31, 2024. This rule change eliminates the expiration date, allowing more time to address the needs of private ICFs/IID that still rely on this variance, while continuing to provide services to the residents of these facilities.

This action is being taken to avoid imminent peril to public health, safety or welfare. Effective December 30, 2024, the Department of Health, Bureau of Health Services Financing amends the provisions governing ICFs/IID in order to extend increased per diem rates for qualifying facilities.

TITLE 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part VII. Long Term Care
Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities

Chapter 329. Reimbursement Methodology

§32903. Rate Determination

A. - M. ...

N. ~~Pursuant to the provisions of Act 1 of the 2020 First Extraordinary Session of the Louisiana Legislature, effective~~
Effective for dates of service on or after July 1, 2020, private ~~ICF/IID facilities~~ ICFs/IID that downsized from over 100 beds to

less than 35 beds prior to December 31, 2010, without the benefit of a cooperative endeavor agreement (CEA) or transitional rate and who incurred excessive capital costs, shall have their per diem rates (excluding provider fees) increased by a percent equal to the percent difference of per diem rates (excluding provider fees and dental pass through) they were paid as of June 30, 2019. See chart below with the applicable percentages:

	Intermittent	Limited	Extensive	Pervasive
1-8 beds	6.2 percent	6.2 percent	6.2 percent	6.1 percent
9-15 beds	3.2 percent	6.2 percent	6.2 percent	6.1 percent
16-32 beds	N/A	N/A	N/A	N/A
33+ beds	N/A	N/A	N/A	N/A

1. The applicable differential shall be applied anytime there is a change to the per diem rates ~~(for example, during rebase, rate reductions, inflationary changes, or special legislative appropriations). This differential shall not extend beyond December 31, 2024.~~

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 31:2253 (September 2005), amended LR 33:462 (March 2007), LR 33:2202 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services

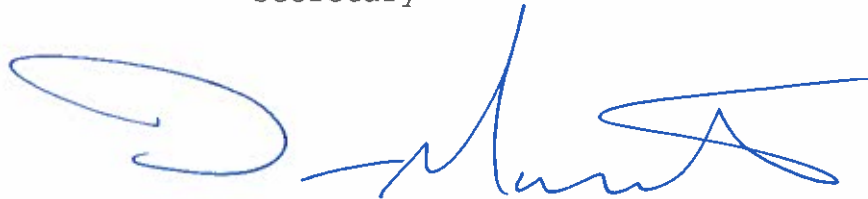
Financing, LR 36:1555 (July 2010), LR 37:3028 (October 2011), LR 39:1780 (July 2013), LR 39:2766 (October 2013), LR 41:539 (March 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:370 (March 2021), LR 49:687 (April 2023), LR 51:

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.

Kimberly Sullivan, JD, Bureau of Health Services Financing, 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.

Michael Harrington, MBA, MA

Secretary

A handwritten signature in blue ink, appearing to read "M. Harrington", written over a horizontal line.

12/19/24