

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

**Disproportionate Share Hospital Payments  
Louisiana Low-Income Academic Hospitals  
(LAC 50:V.2501 and Chapter 31)**

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.2501 and adopts LAC 50:V. Chapter 31 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.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated Emergency Rules which amended the provisions governing disproportionate share hospital (DSH) payments to hospitals participating in public-private partnerships in the south and north Louisiana areas (*Louisiana Register*, Volume 39, Numbers 7 and 10). As a result of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' disapproval of the corresponding State Plan Amendments, the department determined that it was necessary to repeal the provisions of the July 6, 2013 and October 1, 2013

Emergency Rules governing DSH payments to the hospitals participating in the south and north Louisiana area public-private partnerships.

The department promulgated an Emergency Rule which amended the provisions governing DSH payments in order to establish payments to Louisiana Low-Income Academic Hospitals (*Louisiana Register*, Volume 40, Number 6). The department subsequently amended the provisions of the May 24, 2014 Emergency Rule to clarify the provisions governing the payment methodology to Louisiana Low-Income Academic Hospitals (*Louisiana Register*, Volume 40, Number 9). The department has now determined that it is necessary to amend the provisions of the September 20, 2014 Emergency Rule in order to clarify qualifying criteria for Louisiana Low-Income Academic Hospitals and reimbursement methodology. This Emergency Rule also amends the provisions governing the DSH payment methodology. This action is being taken to promote the health and welfare of Medicaid recipients by maintaining recipient access to much needed hospital services.

Effective June 20, 2016 the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the September 20, 2014 Emergency Rule governing DSH payments to Low-Income Academic Hospitals and the DSH payment methodology.

**TITLE 50**

**PUBLIC HEALTH-MEDICAL ASSISTANCE**

**Part V. Hospital Services**

**Subpart 3. Disproportionate Share Hospital Payments**

**Chapter 25. Disproportionate Share Hospital Payment Methodologies**

**§2501. General Provisions**

A. - C. ...

~~D. The uncompensated care costs associated with Medicaid days that do not meet the established criteria for pre-admission certification and length of stay assignment are not allowable for disproportionate share payments.~~

~~E. The uncompensated care costs associated with outpatient high-tech imaging that do not meet the established criteria for radiology utilization management are not allowable for disproportionate share payments.~~ D. - E. Repealed.

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;657 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:790 (April 2014), LR: 42

**Chapter 31. Louisiana Low-Income Academic Hospitals**

**§3101. Qualifying Criteria**

A. Hospitals Located Outside of the ~~Lake Charles~~Baton Rouge and New Orleans Metropolitan Statistical Area

1. Effective for dates of service on or after ~~May 24, 2014~~July 1, 2016, a hospital may qualify for this category by:

a. being a private acute care general hospital that is located outside of the ~~Lake Charles~~Baton Rouge and New Orleans metropolitan statistical area (MSA) which

i. entered into a cooperative endeavor agreement with the State of Louisiana to increase its provision of inpatient Medicaid and uninsured services by providing services that were previously delivered and terminated or reduced by a state owned and operated facility; or

ii. is formerly a state owned and operated hospital whose ownership change to non-state privately owned and operated prior to July 1, 2014;

b. ~~having uninsured patient~~has Medicaid inpatient days utilization, ~~as measured by allowable uninsured inpatient and outpatient charges,~~ greater than ~~20~~18.9 percent.

Qualification shall be ~~based on uninsured utilization data per the prior state fiscal year date of service time period~~calculated by dividing the Medicaid inpatient days by the total inpatient days reported on the Medicaid as filed cost report ending during State Fiscal Year 2015 received by April

30, 2016, and shall include traditional, shared, and managed care Medicaid days per the worksheet S-3 part I, lines 1 through 18. Column 7 shall be used to determine allowable Medicaid days and column 8 shall be used to determine total inpatient days;  
and

c. ~~maintaining at least 15 unweighted intern and resident full-time equivalent positions, as~~ has a ratio of intern and resident full time equivalents (FTEs) to total inpatient beds that is greater than .08. Qualification shall be based on the total inpatient beds and intern and resident FTEs reported on the Medicare/Medicaid cost report ending during State Fiscal Year 2015. The ratio of interns and resident FTEs shall be calculated by dividing the unweighted intern and resident FTEs reported on the Medicare Cost Report Worksheet E-4, line 6 by the total inpatient beds, excluding nursery and Medicare designated distinct part psychiatric unit beds, reported on worksheet S-3, column 2, lines 1 through 18.

B. Hospitals Located In the ~~Lake Charles~~ New Orleans Metropolitan Statistical Area

1. Effective for dates of service on or after ~~May 24, 2014~~ July 1, 2016, a hospital may qualify for this category by:

a. being a private acute care general hospital that is located in the ~~Lake Charles~~ New Orleans MSA which

i. entered into a cooperative endeavor agreement with the State of Louisiana to increase its provision of inpatient Medicaid and uninsured services by providing services that were previously delivered and terminated or reduced by a state owned and operated facility; or

ii. is formerly a state owned and operated hospital whose ownership changed to non-state privately owned and operated prior to July 1, 2014;

b. has Medicaid inpatient days utilization, ~~as measured by allowable uninsured inpatient and outpatient charges,~~ greater than 1045 percent. ~~To determine qualification in state fiscal year 2014, the first six month dates of service time period (July 1, 2013 through December 31, 2013) shall be used. In subsequent state fiscal years, qualification shall be based on uninsured utilization data per the prior state fiscal year date of service time period~~ Qualification shall be calculated by dividing the Medicaid inpatient days by the total inpatient days reported on the Medicaid as filed cost report ending during State Fiscal Year 2015 received by April 30, 2016, and shall include traditional, shared, and managed care Medicaid days per the worksheet S-3 part I, lines 1 through 18. Column 7 shall be used to determine allowable Medicaid days and column 8 shall be used to determine total inpatient days; and

c. ~~maintaining at least 20 unweighted intern and resident full-time equivalent positions, as~~ has a ratio of intern and resident FTEs to total inpatient beds that is greater than 1.25. Qualification shall be based on the total inpatient beds and intern and resident FTEs reported on the Medicare/Medicaid cost report ending during State Fiscal Year 2015. The ratio of interns and resident FTEs shall be calculated by dividing the unweighted intern and resident FTEs reported on the Medicare Cost Report Worksheet E-4, line 6 by the total inpatient beds, excluding nursery and Medicare designated distinct part psychiatric unit beds, reported on worksheet S-3, column 2, lines 1 through 18.

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 40:

**§3103. Payment Methodology**

A. Each qualifying hospital shall be paid DSH adjustment payments equal to 100 percent of allowable hospital specific uncompensated care costs ~~. subject to the Appropriations Act. DSH payments to qualifying hospitals shall not exceed the disproportionate share limits as defined in Section 1923(g)(1)(A) of the Social Security Act for the state fiscal year to which the payment is applicable~~

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.

B. - E. ...

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 42:

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 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to all 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