

DECLARATION OF EMERGENCY

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

**Disproportionate Share Hospital Payments
(LAC 50:V.2707 and 3103)**

The Department of Health, Bureau of Health Services Financing amends LAC 50:V.2707 and §3103 in the Medical Assistance Program as authorized by R.S. 36:254, pursuant to Title XIX of the Social Security Act, and as directed by Act 3 of the 2017 Second Extraordinary Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." 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.

As a result of a budgetary shortfall in state fiscal year 2018-2019, the department has determined that it is necessary to promulgate an Emergency Rule to amend the provisions governing the reimbursement methodology for disproportionate share hospital (DSH) payments in order to revise and clarify the

criteria for payments to public state-operated hospitals and Louisiana low-income academic hospitals. This action is being taken to avoid a budget deficit in the Medical Assistance Program. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$451,810,562 for state fiscal year 2018-2019.

Effective July 1, 2018, the Department of Health, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for DSH payments to public state-operated hospitals and Louisiana low-income academic hospitals.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 7. Disproportionate Share Hospital Payments

Chapter 27. Qualifying Hospitals

§2707. Public State-Operated Hospitals

A. ...

B. DSH payments to individual public state-owned or operated hospitals ~~shall~~may be up to 100 percent of the hospital's net uncompensated costs. Final payment ~~shall~~may be made in accordance with final uncompensated care costs as calculated per the CMS mandated audit for the state fiscal year.

C. - D.2.d. ...

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 34:658 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:790 (April 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

Chapter 31. Louisiana Low-Income Academic Hospitals

§3103. Payment Methodology

A. Each qualifying hospital ~~shall~~may be paid DSH adjustment payments equal to 100 percent of allowable hospital specific uncompensated care costs.

A.1. - B. ...

C. Effective for dates of service on or after July 1, ~~2017~~2018, the first payment ~~of each fiscal year will~~may be made by October 30 ~~and will be 25 percent of the annual calculated uncompensated care costs~~. The remainder of the payment will be made by January 30, April 30 and June 30 of each year.

1. Reconciliation of these payments to actual hospital specific uncompensated care costs ~~will~~may be made when the cost report(s) covering the actual dates of service from the state fiscal year are filed and reviewed.

2. Additional payments or recoupments, as needed, ~~shall~~may be made after the finalization of the Centers for Medicare and Medicaid Services (CMS) mandated DSH audit for the state fiscal year.

D. ...

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, Bureau of Health Services Financing, LR 43:523 (March 2017), amended LR 43:961 (May 2017), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

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 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