



State of Louisiana
Louisiana Department of Health
Office of the Secretary

To: **The Honorable John Bell Edwards, Governor, State of Louisiana (Via Email)**
 The Honorable Jeff Landry, Attorney General, Louisiana Department of Justice (Via Email)
 The Honorable John A. Alario, Jr., President, Louisiana Senate
 (bpa.senatepresident@legis.la.gov)
 The Honorable Taylor F. Barras, Speaker, Louisiana House of Representatives
 (bpa.houseprespeaker@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: October 9, 2019

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

LAC 50:V.954 – Inpatient Hospital Services Reimbursement Methodology Outlier Pool
Rate Increase
October 9, 2019
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Cc: Andrew Perilloux, Rate Setting & Audit Section Chief, Bureau of Health Services
Financing, Department of Health
Jen Katzman, Deputy Medicaid Director, Department of Health
Anita Dupuy, Legislative Liaison, Department of Health
Allen Enger, Acting Rulemaking Coordinator, Department of Health
Catherine Brindley, *Louisiana Register* Editor, Office of the State Register

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 promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to increase outlier pool payments (*Louisiana Register*, Volume 45,

Number 7). This Emergency Rule is being promulgated in order to continue the provisions of the July 1, 2019 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued access to inpatient hospital services.

Effective October 30, 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

By Cindy Ruiz for

10/9/2014