

**NOTICE OF INTENT**

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

**Outpatient Hospital Services  
(LAC 50:V.Subpart 5)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:V.Subpart 5 and repeal the following uncodified Rules in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act:

Register Date	Title	Register Volume, Number	Page Number
August 20, 1983	Change in Limits for Outpatient Hospital Services	Volume 9, Number 8	551
August 20, 1983	Discontinuance of Reimbursement to Emergency Access Hospitals	Volume 9, Number 8	552
December 20, 1985	MAP Outpatient Surgeries	Volume 11, Number 12	1147
November 20, 2000	Outpatient Hospital Services - Medicare Part B Claims	Volume 26, Number 11	2622
July 20, 2003	Outpatient Hospital Laboratory Services	Volume 29, Number 7	1096
December 20, 2003	Hospital Program - Out-of-State Hospitals - Outpatient Services - Reimbursement Reduction	Volume 29, Number 12	2802
December 20, 2004	Hospital Program - Outpatient Surgery Services - HIPAA Implementation	Volume 30, Number 12	2830
February 20, 2007	Hospital Licensing Standards	Volume 33, Number 2	284

This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing outpatient hospital services in order to provide reimbursement for laboratory testing for Coronavirus Disease 2019 (COVID-19) separately from outpatient hospital surgery fee schedule payments (*Louisiana Register*, Volume 48, Number 2). This proposed Rule is being promulgated in order to continue the provisions of the February 10, 2022 Emergency Rule, repeal the above listed uncodified rules, and to amend the provisions governing outpatient hospitals in order to update reimbursement to out-of-state hospitals for consistency with in-state rates.

## **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part V. Hospital Services**

#### **Subpart 5. Outpatient Hospital Services**

#### **Chapter 53. Outpatient Surgery**

#### **Subchapter A. General Provisions ~~(Reserved)~~**

#### **§5301. Payment for Outpatient Surgery Services**

A. Payment for outpatient surgery services is a flat rate in accordance with the published fee schedule. The flat rate payment covers all services provided during the outpatient surgical admission. There shall be no cost settlement for outpatient surgery services except for the specific hospital types identified in Subchapter B of this Chapter.

1. Effective for dates of service on or after February 10, 2022, the Medicaid Program shall provide reimbursement for Coronavirus Disease 2019 laboratory testing in addition to the outpatient surgery fee schedule flat fee reimbursement amount.

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 48:

**Subchapter B. Reimbursement Methodology**

**§5313. Non-Rural, Non-State Hospitals**

A. - D. ...

1. Small rural hospitals as defined in R.S. 40:~~1300.143~~1189.3 shall be exempted from this rate reduction.

E. ...

1. Small rural hospitals as defined in R.S. 40:~~1300.143~~1189.3 shall be exempted from this rate reduction.

F. ...

1. Small rural hospitals as defined in R.S. 40:~~1300.143~~1189.3 shall be exempted from this rate reduction.

G. - M.1. ...

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 Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), LR 36:2041 (September 2010), LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:964 (May 2017), LR 43:2534 (December 2017), LR 44:2166 (December 2018), LR 45:1773 (December 2019), LR 46:1685 (December 2020), LR 48:

**Chapter 55. Clinic Services**

**Subchapter A. General ~~Provision~~ (Reserved) Provisions**

**§5501. Payment for Outpatient Hospital Clinic Services**

A. Payment for outpatient hospital clinic services is a flat rate in accordance with the published fee schedule. There shall be no cost settlement for outpatient clinic services except for the specific hospital types identified in Subchapter B of this Chapter.

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 48:

**Subchapter B. Reimbursement Methodology**

**§5513. Non-Rural, Non-State Hospitals**

A. - D. ...

1. Small rural hospitals as defined in R.S.  
40:~~1300.143~~1189.3 shall be exempted from this rate reduction.

E. ...

1. Small rural hospitals as defined in R.S.  
40:~~1300.143~~1189.3 shall be exempted from this rate reduction.

F. ...

1. Small rural hospitals as defined in R.S.  
40:~~1300.143~~1189.3 shall be exempted from this rate reduction.

G. - L.1. ...

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 Service Financing, LR 35:1900  
(September 2009), amended LR 36:1250 (June 2010), LR 36:2042  
(September 2010), LR 37:3266 (November 2011), LR 40:313  
(February 2014), amended by the Department of Health, Bureau of  
Health Services Financing, LR 43:965 (May 2017), LR 43:2535  
(December 2017), LR 44:2167 (December 2018), LR 45:1773  
(December 2019), LR 48:

## **Chapter 57. Laboratory Services**

### **Subchapter A. General Provisions**

#### **§5701. Payment for Outpatient Hospital Laboratory Services**

A. Payment for outpatient hospital laboratory services is a flat rate in accordance with the published fee schedule. There shall be no cost settlement for outpatient laboratory services.

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 48:

**Subchapter B. Reimbursement Methodology**

**§5713. Non-Rural, Non-State Hospitals**

A. - D. ...

1. Small rural hospitals as defined in R.S. 40:~~1300.143~~1189.3 shall be exempted from this rate reduction.

E. ...

1. Small rural hospitals as defined in R.S. 40:~~1300.143~~1189.3 shall be exempted from this rate reduction.

F. ...

1. Small rural hospitals as defined in R.S. 40:~~1300.143~~1189.3 shall be exempted from this rate reduction.

G. - L.2. ...

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 Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), LR 36:2042

(September 2010), LR 37:3266 (November 2011), LR 40:313  
(February 2014), amended by the Department of Health, Bureau of  
Health Services Financing, LR 43:965 (May 2017), LR 43:2535  
(December 2017), LR 44:2167 (December 2018), LR 45:1773  
(December 2019), LR 48:

## **Chapter 59. Rehabilitation Services**

### **Subchapter A. General Provisions—~~(Reserved)~~**

#### **§5901. Payment for Outpatient Hospital Rehabilitation Services**

A. Payment for outpatient hospital rehabilitation services is a flat rate in accordance with the published fee schedule. There shall be no cost settlement for outpatient rehabilitation services except for the specific hospital types identified in Subchapter B of this Chapter.

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 48:

## **Chapter 61. Other Outpatient Hospital Services**

### **Subchapter A. ~~Reserved~~General Provisions**

#### **§6101. Payment for Other Outpatient Hospital Services**

A. Interim payment for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgery services, rehabilitation services, and outpatient hospital

clinic services shall be at a hospital-specific cost to charge ratio. Final payment shall be a percentage of cost amount as detailed for each type of hospital in Subchapter B of this Chapter. The percentage shall be applied to cost for these services as calculated based on the finalized cost report.

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 48:

**Subchapter B. Reimbursement Methodology**

**§6115. Non-Rural, Non-State Hospitals**

A. - D. ...

1. Small rural hospitals as defined in R.S.

40:~~1300.143~~1189.3 shall be exempted from this rate reduction.

E. ...

1. Small rural hospitals as defined in R.S.

40:~~1300.143~~1189.3 shall be exempted from this rate reduction.

F. ...

1. Small rural hospitals as defined in R.S.

40:~~1300.143~~1189.3 shall be exempted from this rate reduction.

G. - L.1. ...

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 Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), LR 36:2043 (September 2010), LR 37:3267 (November 2011), LR 40:314 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:965 (May 2017), LR 43:2535 (December 2017), LR 44:2168 (December 2018), LR 45:1774 (December 2019), LR 48:

**Chapter 69. Out-of-State Hospitals**

**Subchapter A. Reserved**

**Subchapter B. Reimbursement**

**§6915. Reimbursement Methodology**

A. Reimbursement for all Louisiana Medicaid recipients who receive outpatient services in an out-of-state hospital, including those recipients up to the age of 21, shall be calculated as follows:

1. Outpatient services provided in out-of-state hospitals that are subject to a fee schedule in-state shall be paid at the fee schedule amounts utilized for in-state non-rural, non-state hospitals.

2. Outpatient services provided in out-of-state hospitals that are not subject to a fee schedule in-state shall be paid at the annual average cost to charge ratio calculated from the filed Medicaid cost reports for in-state non-rural,

non-state hospitals multiplied by the percent of allowable cost as specified in §6115 that is in effect for the applicable time period for in-state non-rural, non-state hospitals. This ratio shall be applied to the billed charges for covered claims submitted by out-of-state hospitals to determine payment for non-fee schedule services.

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 48:

## **Chapter 71. Medicare Part B Claims for Medicaid Eligible**

### **Recipients**

#### **Subchapter A. Reserved**

#### **Subchapter B. Reimbursement**

### **§7115. Reimbursement Methodology**

A. To determine the amount that Medicaid will reimburse on a claim for a Medicaid recipient who is also eligible for Medicare Part B, the Medicare claim payment is compared to the Medicaid rate on file for the revenue or procedure codes on the Medicare Part B claims for outpatient hospital services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the

Medicaid maximum payment. If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparison, the amount of the Medicare payment plus the amount of the Medicaid payment, if any, shall be considered to be payment in full for the service.

B. The recipient does not have any legal liability to make payment for the service.

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 48:

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.

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Small Business Analysis**

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may increase direct or indirect cost to the provider to provide the same level of service due to the reduction of Medicaid payments for the service. The proposed Rule may also have a negative impact on the provider's ability to provide the same level of service as described in HCR 170 if the reduction in payments adversely impacts the provider's financial standing.

### **Public Comments**

Interested persons may submit written comments to Patrick Gillies, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Mr. Gillies is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on May 31, 2022.

### **Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on May 10, 2022. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on May 26, 2022 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after May 10, 2022. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez

Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips

Secretary