

**NOTICE OF INTENT**

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

**Inpatient Hospital Services  
Coverage of Genetic Testing of Critically Ill Infants  
(LAC 50:V.119)**

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:V.119 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 501 of the 2022 Regular Session of the Louisiana Legislature requires the Department of Health to provide coverage for genetic testing of critically ill infants participating in the Medical Assistance Program. In compliance with Act 501, the Department of Health, Bureau of Health Services Financing proposes to adopt provisions governing coverage of genetic testing of critically ill infants and to provide Medicaid reimbursement outside of the inpatient hospital per diem.

**Title 50  
PUBLIC HEALTH-MEDICAL ASSISTANCE  
Part V. Hospital Services  
Subpart 1. Inpatient Hospitals Services**

**Chapter 1. General Provisions**

**§119. Coverage of Genetic Testing of Critically Ill Infants**

A. Pursuant to Act 501 of the 2022 Regular Session of the Louisiana Legislature, effective for dates of service on or after January 1, 2023, the Medicaid Program shall provide reimbursement to inpatient hospitals for rapid whole genome sequencing testing of a Medicaid enrolled infant who meets all of the following criteria:

1. is one year of age or younger;
2. has a complex illness of unknown etiology; and
3. is receiving inpatient hospital services in an intensive care unit or in a pediatric care unit.

B. For the purposes of this Section, rapid whole genome sequencing testing includes individual sequencing, trio sequencing of the parents of the infant, and ultra-rapid sequencing.

C. Reimbursement. Reimbursement will be made as an add-on service in addition to the hospital payment for the inpatient hospital stay.

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 49:

#### **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 a positive impact on family functioning, stability and autonomy as described in R.S. 49:972, as it provides access to genetic testing, which may result in faster diagnosis for beneficiaries with rare conditions and allow parents to join physicians in making informed care decisions to avoid unnecessary additional testing and treatments.

#### **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 a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973, as it provides reimbursement for genetic testing that may result in faster diagnosis of rare conditions and avoid unnecessary additional testing and treatments, and other costly procedures.

#### **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 reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170, since this proposed rule provides reimbursement outside of the inpatient hospital per diem for genetic testing of hospitalized infants.

#### **Public Comments**

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on January 30, 2023.

#### **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 January 9, 2023. 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 January 26, 2023 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 January 9, 2023. 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

FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES

Person Preparing Statement:	<u>Veronica Dent</u>	Dept.:	<u>Health</u>
Phone:	<u>342-3238</u>	Office:	<u>Bureau of Health Services Financing</u>
Return Address:	<u>P.O. Box 91030</u>	Rule Title:	<u>Inpatient Hospital Services</u>
	<u>Baton Rouge, LA</u>		<u>Coverage of Genetic Testing</u>
			<u>of Critically Ill Infants</u>
		Date Rule Takes Effect:	<u>March 20, 2023</u>

SUMMARY  
(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state programmatic costs of approximately \$913,770 for FY 22-23, \$1,161,679 for FY 23-24, and \$1,339,617 for FY 24-25. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will increase statutory dedicated revenue collections from the Medical Assistance Trust Fund by approximately \$61,168 for FY 22-23, \$194,119 for FY 23-24, and \$223,598 for FY 24-25. In addition, it is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$2,190,745 for FY 22-23, \$2,420,433 for FY 23-24, and \$2,791,178 for FY 24-25. It is anticipated that \$270 will be collected in FY 22-23 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

This proposed rule adopts provisions governing coverage of genetic testing of critically ill infants participating in the Medical Assistance Program and provides Medicaid reimbursement outside of the inpatient hospital per diem, in compliance with Act 501 of the 2022 Regular Session of the Louisiana Legislature. Implementation of this proposed rule will provide access to genetic testing which may result in faster diagnosis for beneficiaries with rare conditions and allow parents to join physicians in making informed care decisions to avoid unnecessary additional testing and treatments. Implementation of this proposed rule is anticipated to increase payments for inpatient hospital services by \$3,103,975 for FY 22-23, \$3,582,112 for FY 23-24, and \$4,130,795 for FY 24-25, for genetic testing of critically ill infants.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc  
Signature of Agency Head or Designee

Tara A. LeBlanc, Medicaid Executive Director  
Typed Name & Title of Agency Head or Designee

12/7/2022  
Date of Signature

Allen M. Baker  
Legislative Fiscal Officer or Designee

12/8/22  
Date of Signature

Tara A. LeBlanc

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

This proposed rule adopts provisions governing coverage of genetic testing of critically ill infants participating in the Medical Assistance Program and provides Medicaid reimbursement outside of the inpatient hospital per diem, in compliance with Act 501 of the 2022 Regular Session of the Louisiana Legislature.

- B. Summarize the circumstances, which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

Act 501 of the 2022 Regular Session of the Louisiana Legislature requires the Department of Health to provide coverage for genetic testing of critically ill infants participating in the Medical Assistance Program. In compliance with Act 501, the Department of Health, Bureau of Health Services Financing proposes to adopt provisions governing coverage of genetic testing of critically ill infants and to provide Medicaid reimbursement outside of the inpatient hospital per diem.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

Yes. It is estimated that implementation of this proposed rule will result in programmatic costs to the Medicaid program by \$3,104,515 in FY 22-23, \$3,582,112 for FY 23-24, and \$4,130,795 for FY 24-25. In FY 22-23, \$540 is included for the state's administrative expense for promulgation of this proposed rule and the final rule.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a)   X   Yes. If yes, attach documentation.

(b)            NO. If no, provide justification as to why this rule change should be published at this time

Act 501 of the 2022 Regular Session of the Louisiana Legislature directed the Department of Health to provide Medicaid reimbursement of genetic testing of critically ill infants. In addition, Act 199 of the 2022 Regular Session of the Louisiana Legislature allocated funds to the Medical Vendor Program for payments to providers and the operation of the Medicaid Program, and thereby, authorizes the expenditure of these funds. Implementation of this rule will improve health outcomes for critically ill Medicaid beneficiaries.

FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 23	FY 24	FY 25
Personal Services			
Operating Expenses	\$540	\$0	\$0
Professional Services			
Other Charges	\$3,103,975	\$3,582,112	\$4,130,795
Equipment			
Major Repairs & Constr.			
TOTAL	\$3,104,515	\$3,582,112	\$4,130,795
POSITIONS (#)			

2. Provide a narrative explanation of the costs or savings shown in "A. 1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

The expenses reflected above are the estimated increases in programmatic expenditures in the Medicaid program. In FY 22-23, \$540 will be spent for the state's administrative expense for promulgation of this proposed rule and final rule.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 23	FY 24	FY 25
State General Fund	\$852,602	\$967,560	\$1,116,019
Agency Self-Generated			
Dedicated	\$61,168	\$194,119	\$223,598
Federal Funds	\$2,190,745	\$2,420,433	\$2,791,178
Other (Specify)			
TOTAL	\$3,104,515	\$3,582,112	\$4,130,795

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

Yes, sufficient funds are available to implement this rule.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

This proposed rule has no known impact on local governmental units.

2. Indicate the sources of funding of the local governmental unit, which will be affected by these costs or savings.

There is no known impact on the sources of local governmental unit funding.



FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 23	FY 24	FY 25
State General Fund			
Agency Self-Generated			
Dedicated Funds*	\$61,168	\$194,119	\$223,598
Federal Funds	\$2,190,745	\$2,420,433	\$2,791,178
Local Funds			
TOTAL	\$2,251,913	\$2,614,552	\$3,014,776

\*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

The amounts reflected above are the estimated increases in statutory dedicated revenue collections from the Medical Assistance Trust Fund and federal revenue collections. In FY 22-23, \$270 will be collected for the federal share of the administrative expense for promulgation of this proposed rule and the final rule.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET**

**III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS**

- A. What persons, small businesses, or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

This proposed rule adopts provisions governing coverage of genetic testing of critically ill infants participating in the Medical Assistance Program and provides Medicaid reimbursement outside of the inpatient hospital per diem, in compliance with Act 501 of the 2022 Regular Session of the Louisiana Legislature. Implementation of this proposed rule will provide access to genetic testing which may result in faster diagnosis for beneficiaries with rare conditions and allow parents to join physicians in making informed care decisions to avoid unnecessary additional testing and treatments.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

Implementation of this proposed rule is anticipated to increase payments for inpatient hospital services by \$3,103,975 for FY 22-23, \$3,582,112 for FY 23-24, and \$4,130,795 for FY 24-25, for genetic testing of critically ill infants.

**IV. EFFECTS ON COMPETITION AND EMPLOYMENT**

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

This rule has no known effect on competition and employment.