

NOTICE OF INTENT

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

**Ambulatory Surgical Centers
Reimbursement Methodology
(LAC 50:XI.7503)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XI.7503 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.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the reimbursement methodology for ambulatory surgical centers (ASCs) in order to allow qualified ASCs to bill for services provided to Medicaid beneficiaries at the outpatient hospital rate and be reimbursed on the current Louisiana State University enhanced fee schedule.

**Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XI. Clinic Services
Subpart 11. Ambulatory Surgical Centers**

Chapter 75. Reimbursement

§7503. Reimbursement Methodology

A. - G. ...

H. Effective for dates of service after March 20, 2024, an ambulatory surgical center (ASC) shall be reimbursed based on the Louisiana Medicaid Louisiana State University (LSU) enhanced fee schedule, published on the Medicaid provider website at www.lamedicaid.com, if the following conditions are met:

1. The ASC is owned and/or operated by LSU School of Dentistry, LSU Health Sciences Center, or LSU Healthcare network;

2. The ASC is licensed within the state of Louisiana; and

3. The ASC is Medicaid enrolled.

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 35:1889 (September 2009), amended LR 36:2278 (October 2010), LR 37:1572 (June 2011), LR 39:317 (February 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 47:1311 (September 2021), LR 50:

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 may have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by providing increased access to dental services for adult Medicaid beneficiaries with developmental disabilities or behavioral issues.

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 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 increases payments to ambulatory surgical centers for services rendered to adult Medicaid members.

Public Comments

Interested persons may submit written comments to Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on January 29, 2024.

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, 2024. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on January 25, 2024 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, 2024. 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.

Stephen R. Russo, JD

Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person Preparing Statement:	<u>Lyrica Johnson</u>	Dept.:	<u>Health</u>
			<u>Bureau of Health Services</u>
Phone:	<u>342-6375</u>	Office:	<u>Financing</u>
Return Address:	<u>P.O. Box 91030</u>	Rule Title:	<u>Ambulatory Surgical Centers</u>
	<u>Baton Rouge, LA</u>		<u>Reimbursement Methodology</u>
		Date Rule Takes Effect:	<u>March 20, 2024</u>

SUMMARY
(Use complete sentences)

In accordance with Section 961 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 implementation of this proposed rule will result in increased state costs of approximately \$77,191 for FY 23-24, \$433,888 for FY 24-25, and \$619,840 for FY 25-26. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 23-24 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule amends the provisions governing the reimbursement methodology for ambulatory surgical centers (ASCs) in order to allow qualified ASCs to bill for services provided to Medicaid beneficiaries at the outpatient hospital rate and be reimbursed on the current Louisiana State University enhanced fee schedule.

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

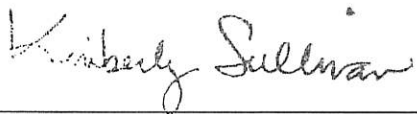
It is anticipated that implementation of this proposed rule will increase federal revenue collections by approximately \$168,085 for FY 23-24, \$920,318 for FY 24-25, and \$1,314,741 for FY 25-26. It is anticipated that \$270 will be collected in FY 23-24 for the federal share of the expense for promulgation 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 amends the provisions governing the reimbursement methodology for ambulatory surgical centers (ASCs) in order to allow qualified ASCs to bill for services provided to Medicaid beneficiaries at the outpatient hospital rate and be reimbursed on the current Louisiana State University enhanced fee schedule. Implementation of this proposed rule will allow qualified ASCs to provide services to Medicaid beneficiaries with developmental disabilities or behavioral issues. It is anticipated that implementation of this proposed rule may increase expenditures in the Medicaid program by approximately \$244,736 for FY 23-24, \$1,354,206 for FY 24-25, and \$1,934,581 for FY 25-26.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule results in an increase in reimbursement rates to these providers.



Signature of Head or Designee

Kimberly Sullivan, JD
Interim Medicaid Executive Director

Typed Name & Title of Agency Head or Designee

12/05/2023

Date of Signature

 Deice Thomas, Deputy Fiscal Officer

Legislative Fiscal Officer or Designee

12/07/2023

Date of Signature

**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 amends the provisions governing the reimbursement methodology for ambulatory surgical centers (ASCs) in order to allow qualified ASCs to bill for services provided to Medicaid beneficiaries at the outpatient hospital rate and be reimbursed on the current Louisiana State University enhanced fee schedule.

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

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the reimbursement methodology for ambulatory surgical centers (ASCs) in order to allow qualified ASCs to bill for services provided to Medicaid beneficiaries at the outpatient hospital rate and be reimbursed on the current Louisiana State University enhanced fee schedule.

- 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 anticipated that implementation of the proposed rule will result in increased programmatic costs to the Medicaid Program of approximately \$245,276 for FY 23-24, \$1,354,206 for FY 24-25, and \$1,934,581 for FY 25-26. In FY 23-24, \$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) _____ YES. If yes, attach documentation.

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

Act 447 of the 2023 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 proposed rule will allow qualified ASCs to provide services to Medicaid beneficiaries with developmental disabilities or behavioral issues and remain financially viable.

**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 24	FY 25	FY 26
PERSONAL SERVICES	\$0	\$0	\$0
OPERATING EXPENSES	\$540	\$0	\$0
PROFESSIONAL SERVICES	\$0	\$0	\$0
OTHER CHARGES	\$244,736	\$1,354,206	\$1,934,581
EQUIPMENT	\$0	\$0	\$0
MAJOR REPAIR & CONSTR.	\$0	\$0	\$0
TOTAL	\$245,276	\$1,354,206	\$1,934,581
POSITIONS (#)	0	0	0

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 expenditures in the Medicaid program. In FY 23-24, \$540 is included for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

SOURCE	FY 24	FY 25	FY 26
STATE GENERAL FUND	\$77,191	\$433,888	\$619,840
AGENCY SELF-GENERATED	\$0	\$0	\$0
DEDICATED	\$0	\$0	\$0
FEDERAL FUNDS	\$168,085	\$920,318	\$1,314,741
OTHER (Specify)	\$0	\$0	\$0
TOTAL	\$245,276	\$1,354,206	\$1,934,581

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 government.

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 24	FY 25	FY 26
STATE GENERAL FUND	\$0	\$0	\$0
AGENCY SELF-GENERATED	\$0	\$0	\$0
DEDICATED	\$0	\$0	\$0
FEDERAL FUNDS	\$168,085	\$920,318	\$1,314,741
LOCAL FUNDS	\$0	\$0	\$0
TOTAL	\$168,085	\$920,318	\$1,314,741

*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 federal revenue collections. In FY 23-24, \$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 amends the provisions governing the reimbursement methodology for ambulatory surgical centers (ASCs) in order to allow qualified ASCs to bill for services provided to Medicaid beneficiaries at the outpatient hospital rate and be reimbursed on the current Louisiana State University enhanced fee schedule. Implementation of this proposed rule will allow qualified ASCs to provide services to Medicaid beneficiaries with developmental disabilities or behavioral issues.

- 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.

It is anticipated that implementation of this rule will have a fiscal impact on the Medicaid budget of \$244,736 for FY 23-24, \$1,354,206 for FY 24-25, and \$1,934,581 for FY 25-26.

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 results in an increase in reimbursement rates to these providers.