

## **NOTICE OF INTENT**

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

#### **Intermediate Care Facilities for Persons with Intellectual Disabilities Temporary Reimbursement for Private Facilities (LAC 50:VII.32904)**

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:I.32904 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.

The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which adopted provisions governing the temporary rates for intermediate care facilities for persons with intellectual disabilities (ICFs/IID) that have a cooperative endeavor agreement with the Office for Citizens with Developmental Disabilities and have a high concentration of people who have intellectual/developmental disabilities, significant behavioral health needs, and high risk behavior resulting in previous interface with the judicial system, and for whom no other private ICFs/IID provider is able to support. This Rule is being proposed to continue the provisions of the February 1, 2021 Emergency Rule.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part VII. Long Term Care**  
**Subpart 3. Intermediate Care Facilities for Persons with**  
**Intellectual Disabilities**

**Chapter 329. Reimbursement Methodology**

**Subchapter A. Non-State Facilities**

**§32904. Temporary Reimbursement for Private Facilities**

A. Effective February 1, 2021, the department shall establish temporary Medicaid reimbursement rates of \$352.08 per day per individual for a 15 bed private ICF/IID community home and \$327.08 for an 8 bed private ICF/IID community home that meet the following criteria. The community home:

1. shall have a fully executed cooperative endeavor agreement (CEA) with the Office for Citizens with Developmental Disabilities for the private operation of the facility;

a. the provider shall be subject to the direct care floor as outlined in the executed CEA;

2. shall have a high concentration of people who have intellectual/developmental disabilities, significant behavioral health needs, high risk behavior, i.e. criminal-like resulting in previous interface with the judicial system, use of restraint, and elopement. These shall be people for whom no other private ICF/IID provider is able to support as confirmed by the Office for Citizens with Developmental Disabilities;

3. incurs or will incur higher existing costs not currently captured in the private ICF/IID rate methodology; and

4. shall have no more than 15 beds in one facility and 8 beds the second facility.

B. The temporary Medicaid reimbursement rate shall only be for the period of four years.

C. The temporary Medicaid reimbursement rate is all-inclusive and incorporates the following cost components:

1. direct care staffing;

2. medical/nursing staff;

3. medical supplies;

4. transportation

5. administrative; and

6. the provider fee.

D. The temporary rate and supplement shall not be subject to the following:

1. inflationary factors or adjustments;

2. rebasing;

3. budgetary reductions; or

4. other rate adjustments.

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 47:

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 in relation to individual or community asset development as described in R.S. 49:973.

#### **Small Business Analysis**

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, 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, as described in R.S. 49:965.2 et seq.

### **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 providers for the same services they already render.

### **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 April 1, 2021.

### **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 March 12, 2021. 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 March 31, 2021 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 March 12, 2021. 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