

**NOTICE OF INTENT**

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

**Intermediate Care Facilities for Persons  
with Intellectual Disabilities  
Rate Determination  
(LAC 50:VII.32903)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:VII.32903 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.

Private Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID) receive a reimbursement rate based on utilization and resident acuity. These rates are calculated using cost components appropriate for an economic and efficient ICFs/IID providing quality service. The resident per diem rates represent the best judgment of the state to provide reasonable and adequate reimbursement required to cover the costs of economic and efficient operation of ICFs/IID.

The existing provision allowed private ICFs/IID that downsized from over 100 beds to less than 35 beds prior to December 31, 2010, without the benefit of a cooperative endeavor agreement (CEA) or transitional rate and that incurred excessive capital costs, to have their per diem rates (excluding provider

fees) increased by a percent equal to the percent difference of per diem rates (excluding provider fees and dental pass through). The applicable differential was scheduled to expire on December 31, 2024. The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule amending provisions governing ICFs/IID to eliminate the expiration date. This change allows more time to address the needs of private ICFs/IID that rely on this variance, ensuring uninterrupted services to the residents of these facilities (*Louisiana Register*, Volume 51, Number 1). This proposed Rule is being promulgated to continue the provisions of the December 30, 2024 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**

**§32903. Rate Determination**

A. - M. ...

N. ~~Pursuant to the provisions of Act 1 of the 2020 First Extraordinary Session of the Louisiana Legislature, effective Effective for dates of service on or after July 1, 2020, private ~~ICF/IID facilities~~ICFs/IID that downsized from over 100 beds to less than 35 beds prior to December 31, 2010, without the benefit of a cooperative endeavor agreement (CEA) or~~

transitional rate and who incurred excessive capital costs, shall have their per diem rates (excluding provider fees) increased by a percent equal to the percent difference of per diem rates (excluding provider fees and dental pass through) they were paid as of June 30, 2019. See chart below with the applicable percentages:

	<b>Intermittent</b>	<b>Limited</b>	<b>Extensive</b>	<b>Pervasive</b>
1-8 beds	6.2 percent	6.2 percent	6.2 percent	6.1 percent
9-15 beds	3.2 percent	6.2 percent	6.2 percent	6.1 percent
16-32 beds	N/A	N/A	N/A	N/A
33+ beds	N/A	N/A	N/A	N/A

1. The applicable differential shall be applied anytime there is a change to the per diem rates ~~(for example, during rebase, rate reductions, inflationary changes, or special legislative appropriations).~~ ~~This differential shall not extend beyond December 31, 2024.~~

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, Office of the Secretary, Bureau of Health Services Financing, LR 31:2253 (September 2005), amended LR 33:462 (March 2007), LR 33:2202 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1555 (July 2010), LR 37:3028 (October 2011), LR 39:1780 (July 2013), LR 39:2766 (October 2013), LR 41:539 (March

2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:370 (March 2021), LR 49:687 (April 2023), LR 51:

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 a 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, and will have no impact on the total direct and indirect cost to the provider to provide the same level of service, but will enable providers to provide the same level of service as described in HCR 170 since this proposed Rule continues the current per diem rates for qualifying facilities.

#### **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 March 24, 2025.

#### **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, 2025. 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 March 27, 2025 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, 2025. 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.

Michael Harrington, MBA, MA

Secretary