

## NOTICE OF INTENT

### Department of Health Bureau of Health Services Financing

#### Intermediate Care Facilities for Persons with Intellectual Disabilities—Reimbursement Methodology (LAC 50:VII.32917)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:VII.32917 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 proposes to amend the provisions governing reimbursement methodology for intermediate care facilities for individuals with intellectual disabilities (ICFs/IID) in order to provide for a one-time lump sum payment in FY 2025 to all privately owned or operated (ICFs/IID) that billed Medicaid between August 1, 2024, and October 31, 2024, and are active and Medicaid certified at the time of payment. The total amount will be prorated among eligible facilities.

#### 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**

### **§32917. Dedicated Program Funding Pool Payments**

A. - C.1.f. ...

D. Effective for providers, active and Medicaid certified as of July 1, 2024, a one-time lump sum payment will be made to non-state, non-public ICFs/IID.

#### **1. Methodology**

a. Payment will be based on each provider's specific prorated share of an additional dedicated program funding pool. This payment shall not exceed \$31,000,000.

b. The prorated share for each provider will be determined utilizing the provider's percentage of program Medicaid days for dates of service within a period of three consecutive months selected by the department, occurring between January 1, 2024, and December 31, 2024.

c. If the additional dedicated program funding pool lump sum payment exceeds the Medicare upper payment limit in the aggregate for the provider class, the department shall recoup the overage using the same means of distribution in §32917.D.1.b above.

d. The one-time payment will be made on or before June 30, 2025.

e. All facilities receiving payment shall be open and operating as an ICF/IID at the time the payment is made.

f. Payment of the one-time, lump sum payment is subject to approval by the CMS.

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 46:28 (January 2020), amended LR 48:2972 (December 2022), 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 or 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 to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, but may provide for a one time lump sum payout in FY 2025 to all privately owned or operated ICF/IIDs.

#### **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

FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES

Person Preparing Statement:	<u>Lyrica Johnson</u>	Dept.:	<u>Health</u>
Phone:	<u>342-6375</u>	Office:	<u>Bureau of Health Services</u>
Return Address:	<u>P.O. Box 91030</u>	Rule Title:	<u>Financing</u>
	<u>Baton Rouge LA</u>		<u>Intermediate Care Facilities for Persons with Intellectual Disabilities</u>
		Date Rule Takes Effect:	<u>Reimbursement Methodology</u>
			<u>May 20, 2025</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 \$9,932,670 for FY 24-25, \$0 for FY 25-26, and \$0 for FY 26-27. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 24-25 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule amends the provisions governing reimbursement methodology for intermediate care facilities for individuals with intellectual disabilities (ICFs/IID) in order to provide for a one-time lump sum payment in FY 2025 to all privately owned or operated (ICFs/IID) that billed Medicaid days between August 1, 2024, and October 31, 2024, and are active and Medicaid certified at the time of payment. The total amount will be prorated among eligible facilities.

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 \$21,067,870 for FY 24-25, for \$0 for FY 25-26, and \$0 for FY 26-27. It is anticipated that \$270 will be collected in FY 24-25 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 reimbursement methodology for intermediate care facilities for individuals with intellectual disabilities (ICFs/IID) in order to provide for a one-time lump sum payment in FY 2025 to all privately owned or operated (ICFs/IID) that billed Medicaid days between August 1, 2024, and October 31, 2024, and are active and Medicaid certified at the time of payment. The total amount will be prorated among eligible facilities. Providers and small businesses will benefit from implementation of this proposed rule, by approximately \$31,000,000 for FY 24-25, \$0 for FY 25-26, and \$0 for FY 26-27.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Kimberly Sullivan  
Signature of Head or Designee  
Kimberly Sullivan, JD  
Medicaid Executive Director  
\_\_\_\_\_  
Typed Name & Title of Agency Head or  
Designee  
02/07/2025  
\_\_\_\_\_  
Date of Signature

Patricia Thomas, Deputy Fiscal Officer  
Legislative Fiscal Officer or Designee  
\_\_\_\_\_  
2/16/2025  
\_\_\_\_\_  
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 reimbursement methodology for intermediate care facilities for individuals with intellectual disabilities (ICFs/IID) in order to provide for a one-time lump sum payment in FY 2025 to all privately owned or operated (ICFs/IID) that billed Medicaid days between August 1, 2024, and October 31, 2024, and are active and Medicaid certified at the time of payment. The total amount will be prorated among eligible facilities.

- 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 reimbursement methodology for intermediate care facilities for individuals with intellectual disabilities (ICFs/IID) in order to provide for a one-time lump sum payment in FY 2025 to all privately owned or operated (ICFs/IID) that billed Medicaid days between August 1, 2024, and October 31, 2024, and are active and Medicaid certified at the time of payment. The total amount will be prorated among eligible facilities.

- 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 providers and small businesses will benefit from implementation of this proposed rule, by approximately \$31,000,540 for FY 24-25, \$0 for FY 25-26, and \$0 for FY 26-27. In FY 24-25, \$540 is included for the state's administrative expense for promulgation of this 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 4 of the 2024 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. .

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 25	FY 26	FY 27
PERSONAL SERVICES	\$0	\$0	\$0
OPERATING EXPENSES	\$540	\$0	\$0
PROFESSIONAL SERVICES	\$0	\$0	\$0
OTHER CHARGES	\$31,000,000	\$0	\$0
EQUIPMENT	\$0	\$0	\$0
MAJOR REPAIR & CONSTR.	\$0	\$0	\$0
TOTAL	\$31,000,540	\$0	\$0
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 24-25, \$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 25	FY 26	FY 27
STATE GENERAL FUND	\$9,932,670	\$0	\$0
AGENCY SELF-GENERATED	\$0	\$0	\$0
DEDICATED	\$0	\$0	\$0
FEDERAL FUNDS	\$21,067,870	\$0	\$0
OTHER (Specify)	\$0	\$0	\$0
TOTAL	\$31,000,540	\$0	\$0

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 25	FY 26	FY 27
STATE GENERAL FUND	\$0	\$0	\$0
AGENCY SELF-GENERATED	\$0	\$0	\$0
DEDICATED	\$0	\$0	\$0
FEDERAL FUNDS	\$21,067,870	\$0	\$0
LOCAL FUNDS	\$0	\$0	\$0
TOTAL	\$21,067,870	\$0	\$0

\*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 24-25, \$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 reimbursement methodology for intermediate care facilities for individuals with intellectual disabilities (ICFs/IID) in order to provide for a one-time lump sum payment in FY 2025 to all privately owned or operated (ICFs/IID) that billed Medicaid days between August 1, 2024, and October 31, 2024, and are active and Medicaid certified at the time of payment. The total amount will be prorated among eligible facilities.

- 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.

Providers and small businesses will benefit from implementation of this proposed rule, by approximately \$31,000,000 for FY 24-25, \$0 for FY 25-26, and \$0 for FY 26-27.

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.