

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Healthcare Services Provider Fees Emergency Ground Ambulance and Hospital Provider Fees (LAC 48:I.4001)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.4001 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 46:2625. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

House Concurrent Resolution (HCR) 6 of the 2018 Regular Session of the Louisiana Legislature enacted an annual hospital stabilization formula and directed the Department of Health, Bureau of Health Services Financing to calculate, levy and collect an assessment for each assessed hospital, with the exception of facilities prohibited from participating in the Medicare Program. In addition, Act 272 of the 2018 Regular Session of the Louisiana Legislature directed the department to increase provider fees for emergency ground ambulance service providers. The department promulgated an Emergency Rule amending the provisions governing provider fees for emergency ground ambulance and hospital services providers in order to comply with HCR 6 and Act 272 (*Louisiana Register*, Volume 44

Number 7). This proposed Rule is being promulgated in order to continue the provisions of the July 1, 2018 Emergency Rule.

Title 48

**PUBLIC HEALTH—GENERAL
PART I. GENERAL Administration
Subpart 1. General**

Chapter 40. Provider Fees

§4001. Specific Fees

A. - D. ...

E. Emergency Ground Ambulance Services. Effective August 1, 2016, a fee shall be imposed on emergency ground ambulance service providers in accordance with R.S. 46:2626.

1. - 3. ...

a. the maximum fee allowable in any year shall not exceed the percentage of net patient service revenues permitted by federal regulation pursuant to 42 CFR 433.68 as determined by the department, as reported by the provider and subject to audit for the previous fiscal year of the provider. The department will arrive at net patient services revenue by using net operating revenue as defined in R.S. 46:2626.

E.4. ...

F. Hospital Services

1. - 4. ...

5. No licensed facility, which is prohibited from participating in the Medicare Program set forth in 42 U.S.C. 1396, shall be assessed or levied any fee for the hospital stabilization authorized in Article VII, Section 10.13 of the Constitution of Louisiana. This provision is specifically subject to the approval of any waiver required by the Centers for Medicare and Medicaid Services and approval by the Department of Health.

AUTHORITY NOTE: Promulgated in accordance with Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2625 and P.L. 102-234.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 19:347 (March 1993), amended LR 20:51 (January 1994), LR 26:1478 (July 2000), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:100 (January 2007), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1887, 1888 (November 2016), LR 43:73 (January 2017), repromulgated LR 43:323 (February 2017), amended LR 44:1015 (June 2018), LR 44:

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.

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.

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.

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 increase the total direct and indirect cost to the provider to provide the same level of service due to the increase in provider fee payments. These provisions may have a negative impact on the provider's

ability to provide the same level of service as described in HCR 170.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, August 29, 2018 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person

Preparing

Statement: Veronica Dent

Phone: 342-3238

Dept.: Health

Office: Bureau of Health Services
Financing

Return P.O. Box 91030

Address: Baton Rouge, LA

Rule Title: Healthcare Services Provider
Fees
Emergency Ground Ambulance
and Hospital Provider Fees

Date Rule Takes Effect: July 1, 2018

SUMMARY

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 summary statements, based on the attached worksheets, 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 have no programmatic fiscal impact to the state other than the cost of promulgation for FY 18-19. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 18-19 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 by approximately \$6,146,480 for FY 18-19, \$6,146,480 for FY 19-20 and \$6,146,480 for FY 20-21. In addition, it is anticipated that federal revenue collections will increase by approximately \$9,504,646 for FY 18-19, \$9,342,575 for FY 19-20 and \$9,342,575 for FY 20-21. It is anticipated that \$270 will be expended in FY 18-19 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

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

In compliance with House Concurrent Resolution 6 and Act 272 of the 2018 Regular Session of the Louisiana Legislature, this proposed Rule continues the provisions of the July 1, 2018 Emergency Rule which amends the provisions governing healthcare services provider fees in order to calculate, levy and collect an assessment for each assessed hospital, with the exception of facilities prohibited from participating in the Medicare Program, and to increase provider fees for emergency ground ambulance service providers. It is anticipated that implementation of this proposed rule will result in an increase in statutory dedicated revenue collections of approximately \$6,146,480 for FY 18-19, \$6,146,480 for FY 19-20 and \$6,146,480 for FY 20-21 as a result of the increased emergency ground ambulance service provider fee.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.

Don Day for Steele
Signature of Agency Head
or Designee

Jen Steele, Medicaid Director
Typed name and Title of
Agency Head or Designee

Bhaskar Ford
LDH/BHSF Budget Head

Evan Brant, Staff Director
Legislative Fiscal Officer
or Designee

7/10/18
Date of Signature

07/10/18
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 deliberations 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).

In compliance with House Concurrent Resolution 6 and Act 272 of the 2018 Regular Session of the Louisiana Legislature, this proposed Rule continues the provisions of the July 1, 2018 Emergency Rule which amends the provisions governing healthcare services provider fees in order to calculate, levy and collect an assessment for each assessed hospital, with the exception of facilities prohibited from participating in the Medicare Program and to increase provider fees for emergency ground ambulance service providers.

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

House Concurrent Resolution (HCR) 6 of the 2018 Regular Session of the Louisiana Legislature enacted an annual hospital stabilization formula and directed the Department of Health, Bureau of Health Services Financing to calculate, levy and collect an assessment for each assessed hospital, with the exception of facilities prohibited from participating in the Medicare Program. In addition, Act 272 of the 2018 Regular Session of the Louisiana Legislature directed the department to increase provider fees for emergency ground ambulance service providers. The department promulgated an Emergency Rule amending the provisions governing provider fees for emergency ground ambulance and hospital services providers in order to comply with HCR 6 and Act 272 (Louisiana Register, Volume 44 Number 7). This proposed Rule is being promulgated in order to continue the provisions of the July 1, 2018 Emergency Rule.

- 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.

It is anticipated that the implementation of this proposed rule will result in a programmatic cost to the state associated with the use of provider fee revenue collections. The Medicaid program will utilize these provider fee revenues to make additional emergency ambulance provider payments. It is anticipated that implementation of this proposed rule will increase provider fee collections to the state by approximately \$6,145,940 for FY 18-19, \$6,146,480 for FY 19-20, and \$6,146,480 for FY 20-21. In FY 18-19, \$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) _____ If yes, attach documentation.
(b) _____ If no, provide justification as to why this rule change should be published at this time.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

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

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

COST	FY 18-19	FY 19-20	FY 20-21
PERSONAL SERVICES			
OPERATING EXPENSES	\$540	\$0	\$0
PROFESSIONAL SERVICES			
OTHER CHARGES			
REPAIR & CONSTR.			
POSITIONS (#)			
TOTAL	\$540	\$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.

In FY 18-19, \$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 18-19	FY 19-20	FY 20-21
STATE GENERAL FUND	\$270		
SELF-GENERATED			
FEDERAL FUND	\$9,504,646	\$9,342,575	\$9,342,575
OTHER (Specify)	\$6,146,480	\$6,146,480	\$6,146,480
Total	\$15,650,396	\$15,489,055	\$15,489,055

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 THIS PROPOSED ACTION.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustment 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.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

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

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

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

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

REVENUE INCREASE/DECREASE	FY 18-19	FY 19-20	FY 20-21
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
RESTRICTED FUNDS*	\$6,146,480	\$6,146,480	\$6,146,480
FEDERAL FUNDS	\$9,504,646	\$9,342,575	\$9,342,575
LOCAL FUNDS			
Total	\$15,651,126	\$15,489,055	\$15,489,055

**Specify the particular fund being impacted - Statutory Dedicated Revenue*

- B. Provide a narrative explanation of each increase or decrease in revenue 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 (Medical Assistance Trust Fund) collections and federal revenue collections. In FY 18-19, \$270 is included for the federal expense for promulgation of this proposed rule and the final rule.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS

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

In compliance with House Concurrent Resolution 6 and Act 272 of the 2018 Regular Session of the Louisiana Legislature, this proposed Rule continues the provisions of the July 1, 2018 Emergency Rule which amends the provisions governing healthcare services provider fees in order to calculate, levy and collect an assessment for each assessed hospital, with the exception of facilities prohibited from participating in the Medicare Program and to increase provider fees for emergency ground ambulance service providers.

- B. Also, provide an estimate of any revenue impact resulting from this rule or rule change to these groups.

It is anticipated that implementation of this proposed rule will result in an increase in statutory dedicated revenue collections of approximately \$6,146,480 for FY 18-19, \$6,146,480 for FY 19-20 and \$6,146,480 for FY 20-21 as a result of the increased emergency ground ambulance service provider fee.

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.

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.