

## NOTICE OF INTENT

### Department of Health Bureau of Health Services Financing

#### Managed Care for Physical and Behavioral Health Hospital Directed Payments (LAC 50:I.3113)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:I.3113 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 adopted provisions governing directed payments to qualifying hospitals that participate in the Healthy Louisiana program and contract with the Medicaid managed care organizations (MCOs) to provide inpatient and outpatient services to MCO enrollees (*Louisiana Register*, Volume 49, Number 2). The department promulgated an Emergency Rule to amend the provisions governing directed payments in order to reserve the right to discontinue interim directed payments to any hospital whose projected recoupment is greater than 50 percent or who discontinues operations during or prior to the directed payment contract period (*Louisiana Register*, Volume 49, Number 6). This

proposed Rule continues the provisions of the May 15, 2023  
Emergency Rule.

## **Title 50**

### **PUBLIC HEALTH-MEDICAL ASSISTANCE**

#### **Part I. Administration**

#### **Subpart 3. Managed Care for Physical and Behavioral Health**

#### **Chapter 31. General Provisions**

#### **§3113. Directed Payments**

A. - A.4.a. ...

b. The department reserves the right to  
discontinue the interim directed payments to any hospital whose  
projected recoupment due to shifts in utilization is greater  
than 50 percent of their estimated interim directed payments or  
any hospital who discontinues operations during or prior to the  
directed payment contract period.

5. - 7.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.  
36:245 and Title XIX of the Social Security Act

HISTORICAL NOTE: Promulgated by the Department of  
Health, Bureau of Health Services Financing, LR 49:264 (February  
2023), amended LR 49:

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 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, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

### **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 July 31, 2023.

### **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 July 10, 2023. 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 July 27, 2023 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 July 10, 2023. 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: Veronica Dent Dept.: Health

Phone: 342-3238 Office: Bureau of Health Services Financing

Return  
Address: P.O. Box 91030 Rule  
Title: Managed Care for Physical and  
Baton Rouge, LA Behavioral Health  
Hospital Directed Payments

Date Rule  
Takes Effect: May 15, 2023

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 have no programmatic fiscal impact to the state other than the cost of promulgation for FY 22-23. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 22-23 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)

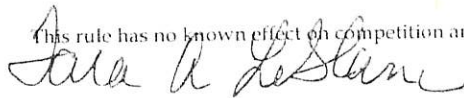
It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 22-23. It is anticipated that \$270 will be collected in FY 22-23 for the federal share of the expense for promulgation of this proposed 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 continues the provisions of the May 15, 2023 Emergency Rule, which amended the provisions governing directed payments to qualifying hospitals that participate in the Healthy Louisiana program and contract with the Medicaid managed care organizations in order to reserve the right to discontinue interim directed payments to any hospital whose projected recoupment is greater than 50 percent or which discontinues operations during or prior to the directed payment contract period. It is anticipated that implementation of this proposed rule will not result in costs to hospitals in FY 22-23, FY 23-24, and FY 24-25, because the hospitals are receiving payments. However, the proposed rule ensures that payments are not made to hospitals that are no longer operating and that others are not overpaid based on actual utilization.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.



Signature of Agency Head or Designee

Tara A. LeBlanc, Medicaid Executive Director  
Typed Name & Title of Agency Head or Designee

06/08/2023  
Date of Signature

  
Legislative Fiscal Officer or Designee  
*Fiscal Officer*

6/8/23  
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 continues the provisions of the May 15, 2023 Emergency Rule, which amended the provisions governing directed payments to qualifying hospitals that participate in the Healthy Louisiana program and contract with the Medicaid managed care organizations in order to reserve the right to discontinue interim directed payments to any hospital whose projected recoupment is greater than 50 percent or which discontinues operations during or prior to the directed payment contract period.

- 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 adopted provisions governing directed payments to qualifying hospitals that participate in the Healthy Louisiana program and contract with the Medicaid managed care organizations (MCOs) to provide inpatient and outpatient services to MCO enrollees (*Louisiana Register*, Volume 49, Number 2). The department promulgated an Emergency Rule to amend the provisions governing directed payments in order to reserve the right to discontinue interim directed payments to any hospital whose projected recoupment is greater than 50 percent or which discontinues operations during or prior to the directed payment contract period (*Louisiana Register*, Volume 49, Number 6). This proposed Rule continues the provisions of the May 15, 2023 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.

No. 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 22-23. In FY 22-23, \$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) \_\_\_\_\_ NO. If no, provide justification as to why this rule change should be published at this time

**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?

<b>COSTS</b>	<b>FY 23</b>	<b>FY 24</b>	<b>FY 25</b>
Personal Services			
Operating Expenses	\$540	\$0	\$0
Professional Services			
Other Charges			
Equipment			
Major Repairs & Constr.			
<b>TOTAL</b>	<b>\$540</b>	<b>\$0</b>	<b>\$0</b>
<b>POSITIONS (#)</b>			

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 22-23, \$540 will be spent 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.

<b>SOURCE</b>	<b>FY 23</b>	<b>FY 24</b>	<b>FY 25</b>
State General Fund	\$270	\$0	\$0
Agency Self-Generated			
Dedicated			
Federal Funds	\$270	\$0	\$0
Other (Specify)			
<b>TOTAL</b>	<b>\$540</b>	<b>\$0</b>	<b>\$0</b>

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 23	FY 24	FY 25
State General Fund			
Agency Self-Generated			
Dedicated Funds*			
Federal Funds	\$270	\$0	\$0
Local Funds			
<b>TOTAL</b>	<b>\$270</b>	<b>\$0</b>	<b>\$0</b>

\*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.

In FY 22-23, \$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 continues the provisions of the May 15, 2023 Emergency Rule, which amended the provisions governing directed payments to qualifying hospitals that participate in the Healthy Louisiana program and contract with the Medicaid managed care organizations in order to reserve the right to discontinue interim directed payments to any hospital whose projected recoupment is greater than 50 percent or which discontinues operations during or prior to the directed payment contract period.

- 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 proposed rule will not result in costs to hospitals in FY 22-23, FY 23-24, and FY 24-25, because the hospitals are receiving payments. However, the proposed rule ensures that payments are not made to hospitals that are no longer operating and that others are not overpaid based on actual utilization.

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.