

**NOTICE OF INTENT**

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

**Inpatient Hospital Services  
Coverage of Donor Human Breast Milk  
(LAC 50:V.111)**

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:V.111 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 adopt provisions governing reimbursement outside of the inpatient hospital per diem for donor human breast milk provided to hospitalized premature newborns in order to ensure access to an effective treatment to reduce the incidence of severe complications.

**Title 50**

**PUBLIC HEALTH MEDICAL ASSISTANCE**

**Part V. Hospital Services**

**Subpart 1. Inpatient Hospitals Services**

**Chapter 1. General Provisions**

**§111. Coverage of Donor Human Breast Milk**

A. The Medicaid Program shall provide reimbursement to acute care hospitals for donor human breast milk provided to hospitalized infants.

B. Reimbursement. Hospitals shall be reimbursed for donor human breast milk when obtained from a member bank of the Human Milk Banking Association of North America. Reimbursement will be made as an add-on service in addition to the hospital payment for the inpatient hospital stay.

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:

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 a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by ensuring

that premature newborns have access to an effective treatment to prevent serious complications.

**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 positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 ensuring that premature newborns have access to an effective treatment to prevent serious complications.

**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, 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 Ruth Johnson, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Johnson is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on June 29, 2020.

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 June 9, 2020. 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 June 25, 2020 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 June 9, 2020. 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

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Inpatient Hospital Services**

**Coverage of Donor Human Breast Milk**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will result in estimated state programmatic costs of \$270 for FY 19-20, \$78,650 for FY 20-21 and \$98,050 for FY 21-22. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 19-20 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 67.28 percent in FY 20-21 and FY 21-22.

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 federal revenue collections by \$270 for FY 19-20, \$161,722 for FY 20-21 and \$201,614 for FY 21-22. It is anticipated that \$270 will be collected in FY 19-20 for the federal share of the expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended FMAP rate of 67.28 percent in FY 20-21 and FY 21-22.

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

This proposed Rule adopts provisions governing reimbursement outside of the inpatient hospital per diem for donor human breast milk provided to hospitalized premature newborns. Implementation of this proposed Rule will have a positive impact on recipients, as it will ensure access to an effective, evidence-based treatment to reduce the incidence of severe complications. Acute care hospitals will benefit from payment for these services outside of the inpatient hospital per diem, which will be off-set by the reduction in the level of care and length of stay required for these premature newborns.

This proposed Rule will have no impact on small businesses. It is anticipated that implementation of this proposed rule will increase programmatic costs for inpatient hospital services by approximately \$240,372 for FY 20-21 and \$299,664 for FY 21-22; however, LDH's actuarial consultants have determined that the costs may be offset entirely by savings realized through reductions in expenditures related to neonatal complications.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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