

NOTICE OF INTENT

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

**Outpatient Hospital Services
High Medicaid Utilization Academic Hospitals
(LAC 50:V.Chapter 77)**

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:V.Chapter 77 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 qualifying criteria and reimbursement methodology for high Medicaid utilization academic hospitals to increase payments for outpatient hospital services.

**Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 5. Outpatient Hospital Services**

Chapter 77. High Medicaid Utilization Academic Hospitals

§7701. Qualifying Criteria

A. In order to qualify as a high Medicaid utilization academic hospital effective for dates of service on or after July 1, 2024 the hospital shall meet the following criteria per the Medicare/Medicaid as filed cost report for their fiscal year ended in SFY 2023:

1. have a Medicaid inpatient utilization percent of at least 39 percent; and

2. have an approved graduate medical education program with at least 400 intern and resident full time equivalents (FTEs). The intern and resident FTE count must be included on the Medicare/Medicaid cost report on worksheet E-4, line 6 plus worksheet E-3, Part II, line 6.

NOTE: Payments will not be processed and claims will not be recycled until the Rule is final.

B. Qualifying hospitals shall not add additional locations under their license, without prior written approval of the department.

1. The addition of any off-site campus, beyond an outpatient primary care clinic, to the license of this hospital will invalidate the provisions of this reimbursement methodology.

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 50:

§7703. Reimbursement Methodology

A. Reimbursement for outpatient hospital services to qualifying high Medicaid academic hospitals who meet all of the criteria in §7701 shall be made as follows:

1. Outpatient Surgery. The reimbursement amount for outpatient hospital surgery services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost as calculated through the cost report settlement process.

2. Clinic Services. The reimbursement amount for outpatient clinic services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost as calculated through the cost report settlement process.

3. Laboratory Services. The reimbursement amount for outpatient clinical diagnostic laboratory services shall be the Medicaid fee schedule amount on file for each service.

4. Rehabilitation Services. The reimbursement amount for outpatient rehabilitation services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost as calculated through the cost report settlement process.

5. Other Outpatient Hospital Services. The reimbursement amount for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services, and outpatient hospital facility fees shall be an interim payment equal to 95 percent of allowable

Medicaid cost as calculated through the cost report settlement process.

B. These rates are conditional on the hospital continuing to meet all qualifying criteria included in §7701. If the hospital no longer qualifies, payments will revert back to appropriate non-rural, non-state hospital assigned rates effective on the date that the qualification(s) in §7701 are no longer met.

C. The department may review all above provisions every three years, at a minimum to evaluate continuation of these enhanced reimbursements.

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 50: 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, but may have a positive impact on the provider's ability to provide the same level of service as described in HCR 170, since it increases payments for services they already render.

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 July 1, 2024.

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 June 10, 2024. 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 June 27, 2024 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 10, 2024. 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.

Ralph L. Abraham, M.D.

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 Financing</u>
Return Address:	<u>P.O. Box 91030</u>	Rule Title:	<u>Outpatient Hospital Services</u>
	<u>Baton Rouge, LA</u>		<u>High Medicaid Utilization Academic Hospitals</u>
		Date Rule Takes Effect:	<u>August 20, 2024</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 JV 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 \$1,492,478 for FY 24-25, and \$3,004,467 for FY 25-26; however, these costs will be offset by an inter-agency transfer of funds. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 23-24 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule adopts provisions governing qualifying criteria and reimbursement methodology for high Medicaid utilization academic hospitals to increase payments for outpatient hospital services.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will increase collections through inter-agency transfer of \$1,492,478 for FY 24-25 and \$3,004,467 for FY 25-26 and will increase federal revenue collections by approximately \$20,318,089 for FY 24-25 and \$24,346,933 for FY 25-26. It is anticipated \$324 will be collected in FY 23-24 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 adopts provisions governing qualifying criteria and reimbursement methodology for high Medicaid utilization academic hospitals to increase payments for outpatient hospital services. Implementation of this proposed rule is anticipated to increase Medicaid payments to the qualifying hospital by approximately \$21,810,567 for FY 24-25 and \$27,351,400 for FY 25-26.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule reimburses a higher percentage of cost to one hospital and may impact hospital directed payments in future fiscal years.

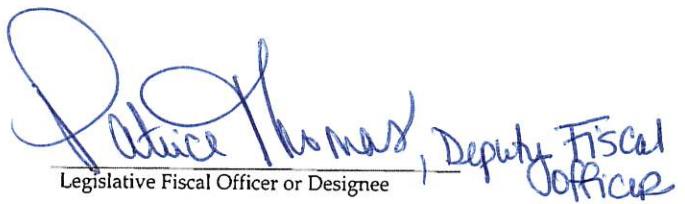


Signature of Head or Designee

Kimberly Sullivan, JD
Medicaid Executive Director
Typed Name & Title of Agency Head or Designee

5.9.24

Date of Signature


Patrice Thomas, Deputy Fiscal Officer

Legislative Fiscal Officer or Designee

5/10/2024

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 adopts provisions governing qualifying criteria and reimbursement methodology for high Medicaid utilization academic hospitals to increase payments for outpatient hospital services.

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 adopt provisions governing qualifying criteria and reimbursement methodology for high Medicaid utilization academic hospitals to increase payments for outpatient hospital services.

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 that implementation of this proposed rule will result in increased programmatic costs to the Medicaid program of approximately \$21,810,567 for FY 24-25 and \$27,351,400 for FY 25-26. In FY 23-24, \$648 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

Act 447 of the 2023 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. The state share of funds for this proposed rule will be offset by an inter-agency transfer. Implementation of this proposed rule will increase payments to the qualifying hospital for outpatient hospital services provided.

**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 24	FY 25	FY 26
PERSONAL SERVICES	\$0	\$0	\$0
OPERATING EXPENSES	\$648	\$0	\$0
PROFESSIONAL SERVICES	\$0	\$0	\$0
OTHER CHARGES	\$0	\$21,810,567	\$27,351,400
EQUIPMENT	\$0	\$0	\$0
MAJOR REPAIR & CONSTR.	\$0	\$0	\$0
TOTAL	\$648	\$21,810,567	\$27,351,400
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 the expenditures in the Medicaid program. In FY 23-24, \$648 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.

SOURCE	FY 24	FY 25	FY 26
STATE GENERAL FUND	\$324	\$0	\$0
AGENCY SELF-GENERATED	\$0	\$0	\$0
DEDICATED	\$0	\$0	\$0
FEDERAL FUNDS	\$324	\$20,318,089	\$24,346,933
OTHER (Inter-agency Transfer)	\$0	\$1,492,478	\$3,004,467
TOTAL	\$648	\$21,810,567	\$27,351,400

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. The inter-agency transfer of funds is indicated as "Other" in the table above.

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 government 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 24	FY 25	FY 26
STATE GENERAL FUND	\$0	\$0	\$0
AGENCY SELF-GENERATED	\$0	\$0	\$0
DEDICATED	\$0	\$0	\$0
FEDERAL FUNDS	\$324	\$20,318,089	\$24,346,933
LOCAL FUNDS	\$0	\$1,492,478	\$3,004,467
TOTAL	\$324	\$21,810,567	\$27,351,400

*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 revenue collections through an inter-agency transfer of funds and in federal revenue collections. In FY 23-24, \$324 will be collected for the federal share of the administrative expense for promulgation of this proposed rule and the final rule. The Local funds above are inter-agency transfer funds.

**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 adopts provisions governing qualifying criteria and reimbursement methodology for high Medicaid utilization academic hospitals to increase payments for outpatient hospital services.

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.

Implementation of this proposed rule is anticipated to increase Medicaid payments to the qualifying hospital by approximately \$21,810,567 for FY 24-25 and \$27,351,400 for FY 25-26.

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.

The proposed rule reimburses a higher percentage of cost to one hospital and may impact hospital directed payments in future fiscal years.