

NOTICE OF INTENT

Department of Health  
Bureau of Health Services Financing

Nursing Facilities  
Reimbursement Methodology  
Case-Mix Documentation Reviews and Index Reports  
(LAC 50:II.20013)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:II.20013 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant of the 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 the reimbursement methodology for nursing facilities in order to align the case-mix index threshold percentage for nursing facility rate setting with the national threshold percentage.

Title 50

**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part II. Nursing Facilities**  
**Subpart 5. Reimbursement**

**Chapter 200. Reimbursement Methodology**

**§20013. Case-Mix Documentation Reviews and Case-Mix Index Reports [Formerly LAC 50:VII.1313]**

A. - B.4. ...

5. The following corrective action will apply to those nursing facility providers with unsupported MDS resident assessments identified during an on-site CMDR.

a. If the percentage of unsupported assessments in the initial on-site CMDR sample is greater than 20 percent, the sample shall be expanded, and shall include the greater of 20 percent of the remaining resident assessments or 10 assessments.

b.- e. ...

<b>Effective Date (A)</b>	<b>Threshold percent (B)</b>
January 1, 2003	Educational
January 1, 2004	40%
January 1, 2005	35%
January 1, 2006	25%
February 20, 2019 and beyond	20%

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 and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2537 (December 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:826 (March 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:528 (March 2017), LR 45:

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 or 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, 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.

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](mailto: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 December, 27, 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

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Rule Title: Nursing Facilities  
Reimbursement Methodology  
Case-Mix Documentation  
Reviews and Index Reports

Date Rule Takes Effect: February 20, 2019

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 result in an estimated state general fund programmatic savings of \$46,808 for FY 18-19, \$182,161 for FY 19-20 and \$182,161 for FY 20-21. It is anticipated that \$432 (\$216 SGF and \$216 FED) will be expended in FY 18-19 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 64.67 percent in FY 18-19 and 65.79 percent in FY 19-20 and FY 20-21.*

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

*It is anticipated that the implementation of this proposed Rule will not affect revenue collections by \$85,859 for FY 18-19, \$350,319 for FY 19-20 and \$350,319 for FY 20-21. It is anticipated that \$216 will be expended in FY 18-19 for the federal administrative expenses 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 64.67 percent in FY 18-19 and 65.79 percent in FY 19-20 and FY 20-21.*

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

*This proposed Rule amends the provisions governing the reimbursement methodology for nursing facilities in order to align the case-mix index threshold percentage for nursing facility rate setting with the national threshold percentage, in compliance with findings by the Louisiana Legislative Auditor resulting from an audit to evaluate the processes used by the Department to ensure the accuracy of Medicaid rates to nursing facilities. Implementation of this proposed rule may result in economic costs to nursing facility providers with documentation errors in resident files that exceed the threshold percentage, but may be beneficial by ensuring that Louisiana's rates are accurate and consistent with those of other states. It is anticipated that implementation of this proposed Rule may decrease Medicaid programmatic expenditures for nursing facilities by \$133,099 in FY 18-19, \$532,480 in FY 19-20 and \$532,480 in FY 20-21.*

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

*This rule has no known effect on competition and employment.*



\_\_\_\_\_  
Signature of Agency Head  
or Designee

*Evan Brasseur, Staff Director*  
\_\_\_\_\_  
Legislative Fiscal Officer  
or Designee

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

11/9/18  
\_\_\_\_\_  
Date of Signature



\_\_\_\_\_  
LDH/BHSF Budget Head

11/09/18  
\_\_\_\_\_  
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).

*This proposed Rule amends the provisions governing the reimbursement methodology for nursing facilities in order to align the case-mix index threshold percentage for nursing facility rate setting with the national threshold percentage, in compliance with findings by the Louisiana Legislative Auditor resulting from an audit to evaluate the processes used by the Department to ensure the accuracy of Medicaid rates to nursing facilities.*

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

*The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the reimbursement methodology for nursing facilities in order to align the case-mix index threshold percentage for nursing facility rate setting with the national threshold percentage.*

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, this proposed rule will result in a reduction in programmatic expenditures by approximately \$132,667 for FY 18-19, \$532,480 for FY 19-20 and \$532,480 for FY 20-21. In FY 18-19 \$432 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	\$432	\$0	\$0
PROFESSIONAL SERVICES			
OTHER CHARGES	(\$133,099)	(\$532,480)	(\$532,480)
REPAIR & CONSTR.			
POSITIONS (#)			
<b>TOTAL</b>	<b>(\$132,667)</b>	<b>(\$532,480)</b>	<b>(\$532,480)</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.

*The expenses reflected above are the estimated reductions in programmatic expenditures in the Medicaid program. In FY 18-19, \$432 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	(\$46,808)	(\$182,161)	(\$182,161)
SELF-GENERATED			
FEDERAL FUND	(\$85,859)	(\$350,319)	(\$350,319)
OTHER (Specify)			
<b>Total</b>	<b>(\$132,667)</b>	<b>(\$532,480)</b>	<b>(\$532,480)</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 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*			
FEDERAL FUNDS	(\$85,859)	(\$350,319)	(\$350,319)
LOCAL FUNDS			
<b>Total</b>	<b>(\$85,859)</b>	<b>(\$350,319)</b>	<b>(\$350,319)</b>

\*Specify the particular fund being impacted

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 reductions in the federal share of programmatic expenditures for the Medicaid Program. In FY 18-19, \$216 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.)

*This proposed Rule amends the provisions governing the reimbursement methodology for nursing facilities in order to align the case-mix index threshold percentage for nursing facility rate setting with the national threshold percentage, in compliance with findings by the Louisiana Legislative Auditor resulting from an audit to evaluate the processes used by the Department to ensure the accuracy of Medicaid rates to nursing facilities.*

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 may result in economic costs to nursing facility providers with documentation errors in resident files that exceed the threshold percentage, but may be beneficial by ensuring that Louisiana's rates are accurate and consistent with those of other states. It is anticipated that implementation of this proposed Rule may decrease Medicaid programmatic expenditures for nursing facilities by \$133,099 in FY 18-19, \$532,480 in FY 19-20 and \$532,480 in FY 20-21.*

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.*