

NOTICE OF INTENT

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

Outpatient Hospital Services
Urban Metropolitan Statistical Area Facility-New Orleans Area
(LAC 50:V.Chapter 75)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:V.Chapter 75 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 promulgated an Emergency Rule which adopted provisions to establish the criteria for an acute care hospital to qualify as an urban metropolitan statistical area (MSA) facility-New Orleans area and the reimbursement methodology for the provision of outpatient services (*Louisiana Register*, Volume 48, Number 10). This proposed Rule is being promulgated to continue the provisions of the October 5, 2022 Emergency Rule.

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

Chapter 75. Urban Metropolitan Statistical Area (MSA)

Facility—New Orleans Area

§7501. Qualifying Criteria

A. In order to qualify as an urban metropolitan statistical area (MSA) facility-New Orleans area, effective October 5, 2022, a hospital must:

1. be designated a non-rural hospital service district located in LDH region 1, with a facility type code of acute, Medicaid enrolled, with an original hospital license date before July 13, 2014, but after July 1, 2014, located in zip code 70127;

2. be a hospital that is located in an MSA as defined by United States Office of Management and Budget;

3. have an operational emergency room; and

4. not add additional locations under this license, without prior written approval of the department.

a. 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 49:

§7503. Reimbursement Methodology

A. Payments for outpatient services to qualifying urban MSA hospitals-New Orleans area who meet all of the criteria in §7501 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. 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 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 a positive impact on family functioning,

stability or autonomy as described in R.S. 49:972 by ensuring continued provider participation in the Medicaid Program.

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 Emergency Rule has been considered. It is anticipated that this Emergency 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 December 30, 2022.

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 December 12, 2022. 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 December 29, 2022 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 December 12, 2022. 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

Person Preparing Statement:	<u>Veronica Dent</u>	Dept.:	<u>Health</u>
Phone:	<u>342-3238</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>Urban Metropolitan Statistical</u>
			<u>Area Facility-New Orleans Area</u>
		Date Rule	
		Takes Effect:	<u>October 5, 2022</u>

SUMMARY (Use complete sentences)

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 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 result in estimated programmatic costs of approximately \$1,411,843 for FY 22-23, \$2,073,793 for FY 23-24, and \$2,073,793 for FY 24-25. It is anticipated that \$756 (\$378 SGF and \$378 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed and final rule.

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

It is anticipated that implementation of this proposed rule will increase federal revenue collections by approximately \$3,384,920 for FY 22-23, \$4,320,883 for FY 23-24, and \$4,320,883 for FY 24-25. It is anticipated that \$378 will be collected for the federal share of the expense for promulgation of the proposed and 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 October 5, 2022 Emergency Rule, which adopted provisions to establish the criteria for an acute care hospital to qualify as an urban metropolitan statistical area (MSA) facility-New Orleans area and the reimbursement methodology for the provision of outpatient services. This proposed rule will benefit Medicaid beneficiaries by ensuring continued access to a New Orleans area urban MSA facility. This proposed rule is anticipated to increase Medicaid payments to a qualifying hospital by approximately \$4,796,007 for FY 22-23, \$6,394,676 for FY 23-24, and \$6,394,676 for FY 24-25, which will assist the hospital in achieving financial viability and continuing operations so vital healthcare services remain available.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. Reslone
Signature of Agency Head or Designee

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

11/09/2022
Date of Signature

Alan M. Bedinger
Legislative Fiscal Officer or Designee

Legislative Fiscal Officer or Designee

11/9/22

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 October 5, 2022 Emergency Rule, which adopted provisions to establish the criteria for an acute care hospital to qualify as an urban metropolitan statistical area (MSA) facility-New Orleans area and the reimbursement methodology for the provision of outpatient 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 promulgated an Emergency Rule which adopted provisions to establish the criteria for an acute care hospital to qualify as an urban metropolitan statistical area (MSA) facility-New Orleans area and the reimbursement methodology for the provision of outpatient services (*Louisiana Register*, Volume 48, Number 10). This proposed Rule is being promulgated to continue the provisions of the October 5, 2022 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.

Yes, it is anticipated that implementation of this proposed rule will result in increased programmatic costs to the Medicaid program of approximately \$4,796,763 for FY 22-23, \$6,394,676 for FY 23-24, and \$6,394,676 for FY 24-25. In FY 22-23 \$756 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 119 of the 2022 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. Implementation of this proposed rule will increase payments for outpatient services to assist a hospital qualifying as an urban MSA facility-New Orleans area in achieving financial viability and continuing operations so vital healthcare services remain available.

**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 23	FY 24	FY 25
Personal Services			
Operating Expenses	\$756	\$0	\$0
Professional Services			
Other Charges	\$4,796,007	\$6,394,676	\$6,394,676
Equipment			
Major Repairs & Constr.			
TOTAL	\$4,796,763	\$6,394,676	\$6,394,676
POSITIONS (#)			

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 22-23 \$756 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 23	FY 24	FY 25
State General Fund	\$1,411,843	\$2,073,793	\$2,073,793
Agency Self-Generated Dedicated			
Federal Funds	\$3,384,920	\$4,320,883	\$4,320,883
Other (Specify)			
TOTAL	\$4,796,763	\$6,394,676	\$6,394,676

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 governmental units.

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	\$3,384,920	\$4,320,883	\$4,320,883
Local Funds			
TOTAL	\$3,384,920	\$4,320,883	\$4,320,883

*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 increase in the federal share of programmatic expenditures for the Medicaid program. In FY 22-23, \$378 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 October 5, 2022 Emergency Rule, which adopted provisions to establish the criteria for an acute care hospital to qualify as an urban metropolitan statistical area (MSA) facility-New Orleans area and the reimbursement methodology for the provision of outpatient services. This proposed rule will benefit Medicaid beneficiaries by ensuring continued access to a New Orleans area urban MSA facility.

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.

This proposed rule is anticipated to increase Medicaid payments to a qualifying hospital by approximately \$4,796,007 for FY 22-23, \$6,394,676 for FY 23-24, and \$6,394,676 for FY 24-25, which will assist the hospital in achieving financial viability and continuing operations so vital healthcare services remain available.

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.