

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Disproportionate Share Hospital Payments Northern Area Psychiatric Hospitals (LAC 50:V.2503 and 2721)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:V.2503 and adopt §2721 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.

Act 447 of the 2023 Regular Session of the Louisiana Legislature allocates funds to the Department of Health for the creation of a new disproportionate share hospital (DSH) pool to pay for the uncompensated care costs of inpatient psychiatric facilities with an academic training mission for services provided to uninsured and low-income individuals.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing DSH payments to establish the qualification criteria and methodology for payments for the uncompensated care costs of inpatient psychiatric hospitals located in the northern area of the state with an academic training mission for services provided to

uninsured and low-income individuals from the payment pool created in accordance with Act 447.

Title 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 3. Disproportionate Share Hospital Payments

Chapter 25. Disproportionate Share Hospital Payment

Methodologies

§2503. Disproportionate Share Hospital Qualifications

A. - A.11. ...

12. be a major medical center located in the southeastern area of the state as defined in §2719.A;

13. be a psychiatric hospital located in the northern area of the state as defined in §2721.A; and

14. effective July 1, 1994, must also have a Medicaid inpatient utilization rate of at least 1 percent.

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 34:655 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3294 (December 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 43:962 (May 2017), LR 45:1763 (December 2019), LR 50:

Chapter 27. Qualifying Hospitals

§2721. Psychiatric Hospitals Located in the Northern Area of the State

A. Effective for dates of service on or after February 20, 2024, hospitals qualifying for payments as psychiatric hospitals located in the northern area of the state shall meet the following criteria:

1. be a private, non-rural freestanding psychiatric hospital located in Department of Health administrative regions 7 or 8; and

2. have a current executed academic affiliation agreement for purposes of providing graduate medical education and training to at least five documented intern and resident full time equivalents (FTEs) annually.

a. the affiliation agreement must be with a medical school located in Louisiana;

b. the intern and resident FTE count must be included on the Medicare/Medicaid cost report annually on worksheet S-3, column 9; and

c. the hospital must be listed as a graduate medical education program training site on the Accreditation Council for Graduate Medical Education website.

B. Payment Methodology. Effective for dates of service on or after February 20, 2024, each qualifying hospital shall be

paid a DSH adjustment payment which is the pro rata amount calculated by dividing their hospital specific allowable uncompensated care costs by the total allowable uncompensated care costs for all hospitals qualifying under this category and multiplying by the funding appropriated by the Louisiana Legislature in the applicable state fiscal year for this category of hospitals.

1. Costs, patient specific data and documentation that qualifying criteria is met shall be submitted in a format specified by the department.

2. Costs and lengths of stay shall be reviewed by the department for reasonableness before payments are made.

3. Aggregate DSH payments for hospitals that receive payment from this category, and any other DSH category, shall not exceed the hospital's specific DSH limit. If payments calculated under this methodology would cause a hospital's aggregate DSH payment to exceed the limit, the payment from this category shall be capped at the hospital's specific DSH limit.

4. A pro rata decrease, necessitated by conditions specified in §2501.B.1 above for hospitals described in this Section, will be calculated based on the ratio determined by dividing the hospital's uncompensated costs by the uncompensated costs for all of the qualifying hospitals described in this Section, then multiplying by the amount of disproportionate

share payments calculated in excess of the federal DSH allotment.

a. Additional payments shall only be made after finalization of the Centers for Medicare and Medicaid Services' (CMS) mandated DSH audit for the state fiscal year. Payments shall be limited to the aggregate amount recouped from the qualifying hospitals described in this Section, based on these reported audit results. If the hospitals' aggregate amount of underpayments reported per the audit results exceeds the aggregate amount overpaid, the payment redistribution to underpaid hospitals shall be paid on a pro rata basis calculated using each hospital's amount underpaid, divided by the sum of underpayments for all of the hospitals described in this Section.

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 may have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972, by providing continued access to vital inpatient psychiatric services.

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 and will have no impact on the total direct and indirect cost to the provider to provide the same level of service, but may enhance the provider's ability to provide the same level of service as described in HCR 170, since this proposed Rule provides payments to qualifying inpatient psychiatric hospitals for services rendered to uninsured and low-income individuals.

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 January 2, 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 December 11, 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 December 28, 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 December 11, 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:	<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>Disproportionate Share Hospital Payments</u>
	<u>Baton Rouge, LA</u>		<u>Northern Area Psychiatric Hospitals</u>
		Date Rule Takes Effect:	<u>February 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 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 increased state costs of approximately \$647,032 for FY 23-24, \$639,800 for FY 24-25, and \$639,800 for FY 25-26. It is anticipated that \$864 (\$432 SGF and \$432 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 amends the provisions governing disproportionate share hospital (DSH) payments to establish the qualification criteria and methodology for payments for the uncompensated care costs of inpatient psychiatric hospitals located in the northern area of the state with an academic training mission for services provided to uninsured and low-income individuals from the payment pool created in accordance with Act 447 of the 2023 Regular Session of the Louisiana Legislature.

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 \$1,353,832 for FY 23-24, \$1,360,200 for FY 24-25, and \$1,360,200 for FY 25-26. It is anticipated that \$432 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 amends the provisions governing disproportionate share hospital (DSH) payments to establish the qualification criteria and methodology for payments for the uncompensated care costs of inpatient psychiatric hospitals located in the northern area of the state with an academic training mission for services provided to uninsured and low-income individuals from the payment pool created in accordance with Act 447 of the 2023 Regular Session of the Louisiana Legislature. This proposed rule will ensure that vital inpatient psychiatric services for low-income patients continue to be provided by psychiatric hospitals in northern Louisiana. Implementation of this proposed rule is anticipated to increase Medicaid payments to qualifying inpatient psychiatric hospitals by \$2,000,000 in FY 23-24, \$2,000,000 in FY 24-25, and \$2,000,000 in FY 25-26.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.



Signature of Head or Designee

Kimberly Sullivan, JD
Interim Medicaid Executive Director

Typed Name & Title of Agency Head or Designee

11/09/2023

Date of Signature

 Deputy Fiscal Officer

Legislative Fiscal Officer or Designee

11/09/2023

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 amends the provisions governing disproportionate share hospital (DSH) payments to establish the qualification criteria and methodology for payments for the uncompensated care costs of inpatient psychiatric hospitals located in the northern area of the state with an academic training mission for services provided to uninsured and low-income individuals from the payment pool created in accordance with Act 447 of the 2023 Regular Session of the Louisiana Legislature.

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

Act 447 of the 2023 Regular Session of the Louisiana Legislature allocates funds to the Department of Health for the creation of a new disproportionate share hospital (DSH) pool to pay for the uncompensated care costs of inpatient psychiatric facilities with an academic training mission for services provided to uninsured and low-income individuals.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing DSH payments to establish the qualification criteria and methodology for payments for the uncompensated care costs of inpatient psychiatric hospitals located in the northern area of the state with an academic training mission for services provided to uninsured and low-income individuals from the payment pool created in accordance with Act 447.

- 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 the proposed rule will result in increased programmatic costs to the Medicaid Program of approximately \$2,000,864 for FY 23-24, \$2,000,000 for FY 24-25, and \$2,000,000 for FY 25-26. In FY 23-24, \$864 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) X 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 appropriates funds to the Department of Health for the creation of a new disproportionate share hospital payments pool to pay for the uncompensated care costs of inpatient psychiatric facilities with an academic training mission for services provided to uninsured and low-income individuals.

**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	\$864	\$0	\$0
PROFESSIONAL SERVICES	\$0	\$0	\$0
OTHER CHARGES	\$2,000,000	\$2,000,000	\$2,000,000
EQUIPMENT	\$0	\$0	\$0
MAJOR REPAIR & CONSTR.	\$0	\$0	\$0
TOTAL	\$2,000,864	\$2,000,000	\$2,000,000
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 expenditures in the Medicaid program. In FY 23-24, \$864 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 24	FY 25	FY 26
STATE GENERAL FUND	\$647,032	\$639,800	\$639,800
AGENCY SELF-GENERATED			
DEDICATED	\$0	\$0	\$0
FEDERAL FUNDS	\$1,353,832	\$1,360,200	\$1,360,200
OTHER (Specify)	\$0	\$0	\$0
TOTAL	\$2,000,864	\$2,000,000	\$2,000,000

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 24	FY 25	FY 26
STATE GENERAL FUND	\$0	\$0	\$0
AGENCY SELF-GENERATED	\$0	\$0	\$0
DEDICATED	\$0	\$0	\$0
FEDERAL FUNDS	\$1,353,832	\$1,360,200	\$1,360,200
LOCAL FUNDS	\$0	\$0	\$0
TOTAL	\$1,353,832	\$1,360,200	\$1,360,200

*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 federal revenue collections. In FY 23-24, \$432 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 amends the provisions governing disproportionate share hospital (DSH) payments to establish the qualification criteria and methodology for payments for the uncompensated care costs of inpatient psychiatric hospitals located in the northern area of the state with an academic training mission for services provided to uninsured and low-income individuals from the payment pool created in accordance with Act 447 of the 2023 Regular Session of the Louisiana Legislature. This proposed rule will ensure that vital inpatient psychiatric services for low-income patients continue to be provided by psychiatric hospitals in northern Louisiana. Implementation of this proposed rule is anticipated to increase Medicaid payments to qualifying inpatient psychiatric hospitals by \$2,000,000 in FY 23-24, \$2,000,000 in FY 24-25, and \$2,000,000 in FY 25-26.

- 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 qualifying inpatient psychiatric hospitals by \$2,000,000 in FY 23-24, \$2,000,000 in FY 24-25, and \$2,000,000 in 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.

This rule has no known effect on competition and employment.