

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Hospital Services Outpatient Hospital Services Other Rural Hospitals (LAC 50:V.Chapter 79)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:V.Chapter 79 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 this Rule to continue the provisions of a corresponding Emergency Rule adopted on September 16, 2024 and promulgated in the October 20, 2024 *Louisiana Register*. This proposed Rule adopts Chapter 79 in LAC Title 50, Part V, Subpart 5 to add new provisions for outpatient payments to qualifying other rural hospitals. The department will increase Medicaid outpatient hospital payments to qualifying hospitals for outpatient hospital services to 95 percent of allowable cost as determined per the Medicare/Medicaid hospital cost report. A provision is included to limit the percentage of increase from the initial year of implementation to 3 percent per encounter cumulative for each subsequent year.

This Rule is proposed to ensure the financial viability of rural hospitals. This measure aims to maintain and enhance access to medical care for Medicaid beneficiaries in their communities.

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

Chapter 79. Other Rural Hospitals

§7901. Qualifying Criteria

A. In order to qualify as an other rural, non-state hospital, the hospital shall meet the following criteria:

1. is a non-state owned hospital;
2. has no more than 60 licensed beds as of October 1, 2024, excluding distinct part psychiatric unit beds, distinct part rehabilitation unit beds, and nursery bassinets;
3. does not qualify as a *rural hospital* as defined in R.S. 40:1189.3;
4. is not located within one of Louisiana's metropolitan statistical areas (MSA) as delineated in the OMB Bulletin No. 23-01;
5. has an operational emergency room; and
6. is located in a municipality with a population of less than 23,000 as measured by the 2020 United States Census.

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 51:

§7903. Reimbursement Methodology

A. The reimbursement rates paid to other rural, non-state hospitals for outpatient hospital services shall be as follows.

1. Surgery Services. 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 hospital facility fees for 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 surgery services, clinic services, clinical diagnostic laboratory services, and rehabilitation services shall be an interim payment equal to 95 percent of allowable Medicaid cost as calculated through the cost report settlement process.

B. If a qualifying hospital's outpatient cost is greater in subsequent cost reporting periods than the initial implementation year cost report period's cost, outpatient costs shall be subjected to a cap prior to determination of cost settlement amount. Calculation of reimbursable costs shall be as follows.

1. An average cost per Medicaid outpatient unduplicated encounter per day shall be established using Medicaid cost report and paid claims data from the initial cost report period of implementation. The average unduplicated encounter cost per day shall be calculated by dividing the total outpatient allowable costs for all Medicaid outpatient services by the number of paid unduplicated encounters per day. Clinical

diagnostic laboratory services and vaccines are not included in this calculation.

2. To determine the capped limit for each subsequent year's allowable cost settlement reimbursement, the base year outpatient unduplicated encounter per day cost shall be multiplied by the unduplicated encounters from the applicable subsequent cost reporting period's Medicaid paid claims data and then increased by 3 percent cumulatively for each year subsequent to the initial implementation year.

3. Final reimbursement shall be 95 percent multiplied by the lesser of capped cost amount calculated per §7903.B.2 or allowable reimbursable cost calculated per §7903.A.

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 51:

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 services as described in HCR 170.

Public Comment

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 December 30, 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 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 December 30, 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 December 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.

Michael Harrington, MBA, MA

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</u>
Return Address:	<u>P.O. Box 91030</u>	Rule Title:	<u>Hospital Services</u>
	<u>Baton Rouge, LA</u>		<u>Outpatient Hospital Services</u>
			<u>Other Rural Hospitals</u>
		Date Rule Takes Effect:	<u>February 20, 2025</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 cost of approximately \$3,083,052 for FY 24-25, \$3,358,499 for FY 25-26, and \$3,358,499 for FY 26-27. It is anticipated that \$756 (\$378 SGF and \$378 FED) will be expended in FY 24-25 for the state's administrative expense for promulgation of this rule and the 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 \$10,408,056 for FY 24-25, \$11,457,354 for FY 25-26, and \$11,457,354 for FY 26-27. It is anticipated that \$378 will be collected in FY 24-25 for the federal share of the expense for promulgation of this proposed rule and the final rule.

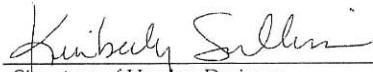
III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

This proposed rule continues the provisions of the September 16, 2024 Emergency Rule, which ensures that other rural hospitals remain financially viable so that the access to medical care that they provide to Medicaid beneficiaries in their communities will continue to be available and will improve in the future (*Louisiana Register*, Volume 50, Number 9). This proposed rule is being promulgated to continue the provisions of the September 16, 2024 Emergency Rule.

It is anticipated that providers will benefit from implementation of this proposed rule as Medicaid payments to other rural hospitals are anticipated to increase by approximately \$13,490,352 for FY 24-25, \$14,815,853 for FY 25-26, and \$14,815,853 for FY 26-27.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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



Signature of Head or Designee


Kimberly Sullivan, JD

Medicaid Executive Director

Typed Name & Title of Agency Head or Designee

11/04/24

Date of Signature


Patricia Thomas, Deputy Fiscal
Officer

Legislative Fiscal Officer or Designee

11/06/2024

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 continues the provisions of the September 16, 2024 Emergency Rule, which ensures that other rural hospitals remain financially viable so that the access to medical care that they provide to Medicaid beneficiaries in their communities will continue to be available and will improve in the future.

- 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 ensures that other rural hospitals remain financially viable so that the access to medical care that they provide to Medicaid beneficiaries in their communities will continue to be available and will improve in the future (*Louisiana Register*, Volume 50, Number 9). This proposed rule is being promulgated to continue the provisions of the September 16, 2024 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 \$13,491,108 for FY 24-25, \$14,815,853 for FY 25-26, and \$14,815,853 for FY 26-27. In FY 24-25, \$756 is included for the state's administrative expense for promulgation of this 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) X NO. If no, provide justification as to why this rule change should be published at this time

Act 4 of the 2024 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 ensure that other rural hospitals remain financially viable to provide Medicaid beneficiaries access to medical care in their communities.

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 25	FY 26	FY 27
PERSONAL SERVICES	\$0	\$0	\$0
OPERATING EXPENSES	\$756	\$0	\$0
PROFESSIONAL SERVICES	\$0	\$0	\$0
OTHER CHARGES	\$13,490,352	\$14,815,853	\$14,815,853
EQUIPMENT	\$0	\$0	\$0
MAJOR REPAIR & CONSTR.	\$0	\$0	\$0
TOTAL	\$13,491,108	\$14,815,853	\$14,815,853
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 24-25, \$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 25	FY 26	FY 27
STATE GENERAL FUND	\$3,083,052	\$3,358,499	\$3,358,499
AGENCY SELF-GENERATED	\$0	\$0	\$0
DEDICATED	\$0	\$0	\$0
FEDERAL FUNDS	\$10,408,056	\$11,457,354	\$11,457,354
OTHER (Specify)	\$0	\$0	\$0
TOTAL	\$13,491,108	\$14,815,853	\$14,815,853

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 as a result of project additional rebate collections.

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 25	FY 26	FY 27
STATE GENERAL FUND	\$0	\$0	\$0
AGENCY SELF-GENERATED	\$0	\$0	\$0
DEDICATED	\$0	\$0	\$0
FEDERAL FUNDS	\$10,408,056	\$11,457,354	\$11,457,354
LOCAL FUNDS	\$0	\$0	\$0
TOTAL	\$10,408,056	\$11,457,354	\$11,457,354

*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 24-25, \$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 September 16, 2024 Emergency Rule, which ensures that other rural hospitals remain financially viable so that the access to medical care that they provide to Medicaid beneficiaries in their communities will continue to be available and will improve in the future (*Louisiana Register*, Volume 50, Number 9).

- 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.

Providers will benefit from implementation of this proposed rule, since it is anticipated to increase Medicaid programmatic expenditures for outpatient hospital services by approximately \$13,490,352 for FY 24-25, \$14,815,853 for FY 25-26, and \$14,815,853 for FY 26-27.

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 proposed rule has no known effect on competition and employment.