

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Disproportionate Share Hospital Payments
Inpatient Psychiatric Services
Reimbursement Rate Reduction
(LAC 50:V.959 and 2709)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:V.959 and §2709 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 and Hospitals, Bureau of Health Services amended the provisions governing the reimbursement methodology for inpatient hospital services in order to provide supplemental Medicaid payments to non-rural, non-state acute care hospitals that enter into a cooperative endeavor agreement with the department to provide inpatient psychiatric services (*Louisiana Register*, Volume 39, Number 2). The department amended the provisions governing disproportionate share hospital (DSH) payments to non-state distinct part psychiatric units that enter into a cooperative endeavor agreement with the department's Office of Behavioral Health (*Louisiana Register*, Volume 39, Number 3).

As a result of a budgetary shortfall in state fiscal year 2016, the department promulgated an Emergency Rule which amended the provisions governing DSH payments to reduce the payments made to non-rural, non-state acute care hospitals for inpatient psychiatric services (*Louisiana Register*, Volume 41, Number 9). This proposed rule is being promulgated to continue the provisions of the October 1, 2015 Emergency Rule.

TITLE 50

**PUBLIC HEALTH-MEDICAL ASSISTANCE
Part V. Hospital Services**

Subpart 1. Inpatient Hospital Services

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§959. Inpatient Psychiatric Hospital Services

A. - L. ...

M. Effective for dates of service on or after October 1, 2015, the prospective per diem rate paid to non-rural, non-state acute care hospitals that enter into a CEA with the Department of Health and Hospitals, Office of Behavioral Health to provide inpatient psychiatric hospital services to uninsured patients, shall be reduced by 5 percent of the per diem rate on file as of September 30, 2015. The new per diem rate shall be \$552.05 per day.

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 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), LR 36:1554 (July 2010), LR 36:2562 (November 2010), LR 37:2162 (July 2011), LR 39:94 (January 2013), LR 39:323 (February 2013), LR 41:

Subpart 3. Disproportionate Share Hospital Payments

Chapter 27. Qualifying Hospitals

§2709. Distinct Part Psychiatric Units

A. - C. ...

D. Effective for dates of service on or after October 1, 2015, the prospective per diem rate paid to non-rural, non-state acute care hospitals that enter into a CEA with the Department of Health and Hospitals, Office of Behavioral Health to provide inpatient psychiatric hospital services to uninsured patients, shall be reduced by 5 percent of the per diem rate on file as of September 30, 2015 for distinct part psychiatric unit services. The new per diem rate shall be \$552.05 per day.

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 34:1627 (August 2008), amended by the

Department of Health and Hospitals, Bureau of Health Services
Financing, LR 39:505 (March 2013), LR 41:

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 an adverse impact on family functioning, stability or autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

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 an adverse impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 in the event that health care assistance is reduced as a result of diminished provider participation due to the reimbursement rate reductions.

In compliance with House Concurrent Resolution 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, but may increase the total direct and indirect cost to the provider to provide the same level of service due to the reduction of these payments. The proposed Rule may also have a negative impact on the provider's ability to provide the same level of service as described in HCR 170 if the reduction in payments adversely impacts the provider's financial standing.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, October 29, 2015 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.

Kathy H. Kliebert

Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person

Preparing

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Rule Title: Disproportionate Share Hospital
Payments - Inpatient Psychiatric
Services - Reimbursement Rate
Reduction

Date Rule Takes Effect: October 1, 2015

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 the implementation of this proposed rule will result in estimated state general fund programmatic savings of \$115,975 for FY 15-16, \$160,139 for FY 16-17 and \$164,944 for FY 17-18. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 15-16 for the state's administrative expense 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 62.17 percent in FY 15-16 and 62.07 percent in FY 16-17 and FY 17-18.

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

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$190,802 for FY 15-16, \$262,058 for FY 16-17 and \$269,919 for FY 17-18. It is anticipated that \$324 will be expended in FY 15-16 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 62.17 percent in FY 15-16 and 62.07 percent in FY 16-17 and FY 17-18.

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

This proposed Rule continues the provisions of the October 1, 2015 emergency rule which amended the provisions governing disproportionate share hospital (DSH) payments to reduce DSH payments to qualifying hospitals for inpatient psychiatric services to avoid a budget deficit in FY 2015-16. It is anticipated that implementation of this proposed rule will reduce programmatic expenditures for DSH payments by approximately \$307,425 for FY 15-16, \$422,197 for FY 16-17 and \$434,863 for FY 17-18.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that the implementation of this proposed rule may have a negative effect on employment as it will reduce the payments made for inpatient psychiatric hospital services. The reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.



Signature of Agency Head
or Designee

Evan Brassel, Staff Director

Legislative Fiscal Officer
or Designee

J. Ruth Kennedy, Medicaid Director
Typed name and Title of
Agency Head or Designee

9/10/15

Date of Signature



DHH/BHSF Budget Head

9/9/15

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 continues the provisions of the October 1, 2015 emergency rule which amended the provisions governing disproportionate share hospital (DSH) payments to reduce DSH payments to qualifying hospitals for inpatient psychiatric services to avoid a budget deficit in FY 2015-16.

- 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 and Hospitals, Bureau of Health Services amended the provisions governing the reimbursement methodology for inpatient hospital services in order to provide supplemental Medicaid payments to non-rural, non-state acute care hospitals that enter into a cooperative endeavor agreement with the department to provide inpatient psychiatric services (Louisiana Register, Volume 39, Number 2). The department amended the provisions governing disproportionate share hospital (DSH) payments to non-state distinct part psychiatric units that enter into a cooperative endeavor agreement with the department's Office of Behavioral Health (Louisiana Register, Volume 39, Number 3).

As a result of a budgetary shortfall in state fiscal year 2016, the department promulgated an Emergency Rule which amended the provisions governing DSH payments to reduce the payments made to non-rural, non-state acute care hospitals for inpatient psychiatric services (Louisiana Register, Volume 41, Number 9). This proposed rule is being promulgated to continue the provisions of the October 1, 2015 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.

This proposed rule will result in a reduction in program expenditures for DSH payments by approximately \$306,777 for FY 15-16, \$422,197 for FY 16-17 and \$434,863 for FY 17-18. In FY 15-16, \$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) _____ 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 15-16	FY 16-17	FY 17-18
PERSONAL SERVICES			
OPERATING EXPENSES	\$648	\$0	\$0
PROFESSIONAL SERVICES			
OTHER CHARGES	(\$307,425)	(\$422,197)	(\$434,863)
REPAIR & CONSTR.			
POSITIONS (#)			
TOTAL	(\$306,777)	(\$422,197)	(\$434,863)

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 decreases in program expenditures for DSH payments. In FY 15-16, \$648 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 15-16	FY 16-17	FY 17-18
STATE GENERAL FUND	(\$115,975)	(\$160,139)	(\$164,944)
SELF-GENERATED			
FEDERAL FUND	(\$190,802)	(\$262,058)	(\$269,919)
OTHER (Specify)			
Total	(\$306,777)	(\$422,197)	(\$434,863)

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 15-16	FY 16-17	FY 17-18
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
RESTRICTED FUNDS*			
FEDERAL FUNDS	\$190,802	\$262,058	\$269,919
LOCAL FUNDS			
Total	\$190,802	\$262,058	\$269,919

*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 reduction in the federal share of program expenditures for DSH payments. In FY 15-16, \$324 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 continues the provisions of the October 1, 2015 emergency rule which amended the provisions governing disproportionate share hospital (DSH) payments to reduce DSH payments to qualifying hospitals for inpatient psychiatric services to avoid a budget deficit in FY 2015-16.

- 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 will reduce programmatic expenditures for DSH payments by approximately \$307,425 for FY 15-16, \$422,197 for FY 16-17 and \$434,863 for FY 17-18.

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.

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that the implementation of this proposed rule may have a negative effect on employment as it will reduce the payments made for inpatient psychiatric hospital services. The reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.