

## **NOTICE OF INTENT**

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

#### **Hospital Provider Fee Assessment (LAC 48:I.4001)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.4001 as authorized by R.S. 36:254 and R.S.46:2625. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

House Concurrent Resolution (HCR) 2 of the 2020 First Extraordinary Session of the Louisiana Legislature provided for a hospital stabilization formula and directed the Department of Health, Bureau of Health Services Financing to calculate, levy and collect an assessment for each assessed hospital. In compliance with HCR 2, the Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing hospital provider fees to establish hospital assessments and related matters.

### **Title 48**

#### **PUBLIC HEALTH—GENERAL**

#### **PART I. GENERAL Administration**

#### **Subpart 1. General**

#### **Chapter 40. Provider Fees**

#### **§4001. Specific Fees**

A. - F.4. ...

5. Pursuant to the provisions of House Concurrent Resolution 2 of the 2020 First Extraordinary Session of the Louisiana Legislature, subject to the approval of the Centers for Medicare and Medicaid Services, any hospital under 50 beds shall be exempt from the hospital assessment from January 1, 2020 through July 31, 2020.

AUTHORITY NOTE: Promulgated in accordance with Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2625 and P.L. 102-234.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 19:347 (March 1993), amended LR 20:51 (January 1994), LR 26:1478 (July 2000), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:100 (January 2007), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1887, 1888 (November 2016), LR 43:73 (January 2017), repromulgated LR 43:323 (February 2017), amended LR 44:1015 (June 2018), LR 44:1894 (October 2018), LR 45:1597 (November 2019), LR 46:

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 Act 820 of the 2008 Regular Session of the Louisiana Legislature, 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, as described in R.S. 49:965.2 et seq.

#### **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 provider's ability to provide the same level of service as described in HCR 170.

### **Public Comments**

Interested persons may submit written comments to Ruth Johnson, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Johnson is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 30, 2020.

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 October 12, 2020. 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 October 29, 2020 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 October 12, 2020. 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: Veronica Dent Dept.: Health  
Phone: 342-3238 Office: Bureau of Health Services Financing  
Return  
Address: PO Box 91030 Rule  
Title: Hospital Provider Fees  
Baton Rouge, LA  
Date Rule  
Takes Effect: December 20, 2020

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 have no programmatic fiscal impact to the state other than the cost of promulgation for FY 20-21. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 20-21 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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


It is anticipated that the implementation of this proposed rule will decrease statutory dedicated revenue collections by approximately \$6,450,983 for FY 20-21, and \$0 for FY 21-22 and FY 22-23. In addition, it is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$58,058,577 for FY 20-21, and \$0 for FY 21-22, and FY 22-23. It is anticipated that \$270 will be collected in FY 20-21 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)


In compliance with House Concurrent Resolution 2 of the 2020 First Extraordinary Session of the Louisiana Legislature, this proposed rule amends the provisions governing hospital provider fees in order to calculate, levy and collect an assessment for each assessed hospital. This rule temporarily suspends the assessment associated with a subset of hospitals that have less than 50 beds that otherwise would be subject to the provider assessment. It is anticipated that implementation of this proposed rule will reduce federal revenue collections and dedicated revenue collections by approximately \$64,509,830 for FY 20-21 and \$0 for FY 21-22 and FY 22-23.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

  
\_\_\_\_\_  
Signature of Agency Head or Designee  
Ruth Johnson, Medicaid Executive Director  
Typed Name & Title of Agency Head or Designee  
9/10/20

\_\_\_\_\_  
Date of Signature

  
\_\_\_\_\_  
Legislative Fiscal Officer or Designee  
9/10/20  
\_\_\_\_\_  
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).

In compliance with House Concurrent Resolution 2 of the 2020 First Extraordinary Session of the Louisiana Legislature, this proposed rule amends the provisions governing hospital provider fees in order to calculate, levy and collect an assessment for each assessed hospital.

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

House Concurrent Resolution (HCR) 2 of the 2020 First Extraordinary Session of the Louisiana Legislature provided for a hospital stabilization formula and directed the Department of Health, Bureau of Health Services Financing to calculate, levy and collect an assessment for each assessed hospital. In compliance with HCR 2, the Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing hospital provider fees to establish hospital assessment fees and related matters.

- 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. It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 20-21. In FY 20-21, \$540 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

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 21	FY 22	FY 23
Personal Services			
Operating Expenses	\$540		
Professional Services			
Other Charges	(\$64,509,830)		
Equipment			
Major Repairs & Constr.			
TOTAL	(\$64,509,290)	\$0	\$0
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.

In FY 20-21, \$540 will be spent 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 21	FY 22	FY 23
State General Fund	\$270		
Agency Self-Generated			
Dedicated	(\$6,450,983)		
Federal Funds	(\$58,058,577)		
Other (Specify)			
TOTAL	(\$64,509,290)	\$0	\$0

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 21	FY 22	FY 23
State General Fund			
Agency Self-Generated			
Dedicated Funds*	(\$6,450,983)		
Federal Funds	(\$58,058,577)		
Local Funds			
<b>TOTAL</b>	<b>(\$64,509,560)</b>	<b>\$0</b>	<b>\$0</b>

\*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 decrease in collection of dedicated funds and the federal share of programmatic expenditures for the Medicaid program. In FY 20-21, \$270 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.

In compliance with House Concurrent Resolution 2 of the 2020 First Extraordinary Session of the Louisiana Legislature, this proposed rule amends the provisions governing hospital provider fees in order to calculate, levy and collect an assessment for each assessed hospital. This rule temporarily suspends the assessment associated with a subset of hospitals that have less than 50 beds that otherwise would be subject to the provider assessment.

- 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.

It is anticipated that implementation of this proposed rule will reduce federal revenue collections and dedicated revenue collections by approximately \$64,509,830 for FY 20-21 and \$0 for FY 21-22 and FY 22-23.

**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.