

administered by the Office of Aging and Adult Services and the Office for Citizens with Developmental Disabilities through an administrative contract with the department. Under the current arrangement, providers may change every three years due to the state’s contracting requirements; however, Medicaid enrolled providers may continue providing services as long as they meet program requirements, resulting in more stability and familiarity with families that participate in self-direction. This proposed rule eliminates the administrative contracting process, establishes FMS as a waiver service, and allows F/EAs to enroll in Medicaid to ensure greater stability among providers that support the self-direction program. Implementation of this proposed rule is anticipated to increase expenditures in the Medicaid program by approximately \$3,240 for FY 22-23, \$2,313,144 for FY 23-24, and \$3,405,334 for FY 24-25.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
 Medicaid Executive Director
 2306#040

Evan Brasseaux
 Interim Deputy Fiscal Officer
 Legislative Fiscal Office

NOTICE OF INTENT
Department of Health
Bureau of Health Services Financing

Inpatient Hospital Services
 Out-of-State Hospitals
 (LAC 50:V.2401 and 2403)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:V.Chapter 24 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 is required under 42 CFR §431.52 to pay for services furnished in another state to the same extent that it would pay for in-state services for Medicaid beneficiaries that reside in Louisiana. The department has determined that the current reimbursement rates for inpatient services furnished by out-of-state hospitals are not in alignment with those of in-state hospitals.

In compliance with 42 CFR §431.52, the Department of Health, Bureau of Health Services Financing proposes to adopt provisions governing medically necessary inpatient services furnished to Louisiana Medicaid beneficiaries by out-of-state hospitals in order to align the reimbursement rates for those services with current in-state inpatient per diem rates for like hospitals/services.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 1. Inpatient Hospitals Services
Chapter 24. Out-of-State Hospitals
§2401. General Provisions

A. Effective for dates of service on or after September 20, 2023, payment will be made to out-of-state hospitals for provision of inpatient services which meet at least one of the following conditions:

1. medical services are needed because of a medical emergency;
2. medical services are needed and the beneficiaries’ health would be endangered if they were required to travel to their state of residence;
3. the state determines, on the basis of medical advice, that the needed medical services, or necessary supplementary resources, are more readily available in the other state; or
4. it is general practice for beneficiaries in a particular locality to use medical resources in another state.

B. Hospitals located in counties in Mississippi, Arkansas, and Texas that border the state of Louisiana are referred to as trade area hospitals.

C. Trade area hospitals that are unable to fully treat presenting Louisiana beneficiaries shall transfer patients to the Louisiana hospital within the closest proximity with available services.

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:

§2403. Reimbursement Methodology

A. Effective for dates of service on or after September 20, 2023, payment for all out-of-state inpatient services, other than organ transplants, shall be made at the Louisiana in-state prospective peer group rate in effect for the corresponding type of non-teaching hospital or specialty carve out service.

1. Separate prospective per diem rates will be paid for out-of-state inpatient services provided in acute care general hospitals, psychiatric hospitals and services, rehabilitation hospitals, long term acute care hospitals, children’s hospitals, nursery services, neonatal intensive care services, pediatric intensive care services, and burn unit intensive care services.

B. Effective for dates of service on or after September 20, 2023, payment for inpatient organ transplant service provided by out-of-state hospitals shall be paid as follows:

1. 40 percent of allowable covered billed charges for beneficiaries ages 21 and above; or
2. 60 percent of allowable covered billed charges for beneficiaries under age 21.

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 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, or on the direct or indirect cost to the provider, but may negatively impact on the provider's ability to provide the same level of service as described in HCR 170, if the reimbursement rate change results in decreased payments to the provider.

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 July 31, 2023.

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 July 10, 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 July 27, 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 July 10, 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

RULE TITLE: Inpatient Hospital Services Out-of-State Hospitals

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will increase state costs by approximately \$324 for FY 22-23 and reduce state costs by approximately \$9,708,338 for FY 23-24, and \$14,274,036 for FY 24-25. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 22-23 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 this proposed rule will increase federal revenue collections by approximately \$324 for FY 22-23 and reduce federal revenue collections by approximately \$21,180,422 for FY 23-24 and \$30,234,964 FY 24-25. It is anticipated that \$324 will be collected in FY 22-23 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 NONGOVERNMENTAL GROUPS (Summary)

This proposed rule adopts provisions governing medically necessary inpatient services furnished to Louisiana Medicaid beneficiaries by out-of-state hospitals in order to align the reimbursement rates for those services with current in-state inpatient per diem rates for like hospitals/services. The proposed rule complies with 42 CFR §431.52, which requires the state to pay for services furnished in another state to the same extent that it would pay for in-state services for Medicaid beneficiaries that reside in Louisiana. This will allow the beneficiaries to maintain access to medically necessary out-of-state inpatient hospital services. Implementation of this proposed rule is anticipated to decrease expenditures for inpatient out-of-state hospital services by approximately \$30,888,760 for FY 23-24 and \$44,509,000 for FY 24-25, which may negatively impact providers if the reimbursement rate change results in decreased payments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2306#041

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Managed Care for Physical and Behavioral Health
Hospital Directed Payments
(LAC 50:I.3113)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:I.3113 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 adopted provisions governing directed payments to qualifying hospitals that participate in the Healthy Louisiana program and contract with the Medicaid managed care organizations (MCOs) to provide inpatient and outpatient services to MCO enrollees (*Louisiana Register*, Volume 49, Number 2). The department promulgated an Emergency Rule to amend the provisions governing directed payments in order to reserve the right to discontinue interim directed payments to any hospital whose projected recoupment is greater than 50 percent or who discontinues