

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Disproportionate Share Hospital Payments
Mental Health Emergency Room Extensions
(LAC 50:V.2711)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:V.2711 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, Office of the Secretary, Bureau of Health Services Financing adopted provisions for the reimbursement of uncompensated care costs for psychiatric services provided by non-state acute care hospitals that established a Mental Health Emergency Room Extension (MHERE) and entered into an agreement with the Office of Mental Health (*Louisiana Register*, Volume 34, Number 8). The department promulgated an Emergency Rule to amend the August 20, 2008 Rule to change the deadline for hospitals to sign an agreement to participate as an MHERE (*Louisiana Register*, Volume 35, Number 12). This proposed Rule is being promulgated to continue the provisions of the December 20, 2009 Emergency Rule.

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 a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by increasing access to these services.

TITLE 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part V. Medical Assistance Program-Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 27. Qualifying Hospitals

§2711. Mental Health Emergency Room Extensions

A. Medicaid-enrolled non-state, acute care hospitals that establish a Mental Health Emergency Room Extension (MHERE) and sign an addendum to the Provider Enrollment form (PE-50) by July 1, 2010, shall be reimbursed for their net uncompensated care costs for psychiatric services rendered to patients.

A.1. - E. ...

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 34:1628 (August 2008), amended by the

Deleted: Effective for dates of service on or after

Deleted: April 7, 2008

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Department of Health and Hospitals, Bureau of Health Services
Financing, LR 36:

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.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, June 23, 2010 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.

Alan Levine

Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

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Preparing

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Rule Title: Disproportionate Share Hospital
Payments
Mental Health Emergency Room
Extensions

Date Rule Takes Effect: December 20, 2009

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 implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 09-10. It is anticipated that \$246 (\$123 SGF and \$123 FED) will be expended in FY 09-10 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 not affect federal revenue collections other than the federal share of the promulgation costs for FY 09-10. It is anticipated that \$123 will be collected in FY 09-10 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 OR NON-GOVERNMENTAL GROUPS (Summary)

This rule, which continues the provisions of the December 20, 2009 emergency rule, proposes to change the deadline for hospitals that established a Mental Health Emergency Room Extension (MHERE) to sign an agreement to participate for reimbursement of uncompensated care costs for psychiatric services. This rule may possibly result in an increase in disproportionate share hospital (DSH) payments for FY 09-10, FY 10-11, and FY 11-12 to some hospitals.

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 positive effect on employment as it may increase DSH payments to some hospitals. The increase in payments may improve the financial standing of these hospitals and could possibly cause an

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 rule, which continues the provisions of the December 20, 2009 emergency rule, proposes to change the deadline for hospitals that established a Mental Health Emergency Room Extension (MHERE) to sign an agreement to participate for reimbursement of uncompensated care costs for psychiatric services.

- 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, Office of the Secretary, Bureau of Health Services Financing adopted provisions for the reimbursement of uncompensated care costs for psychiatric services provided by non-state acute care hospitals that established a Mental Health Emergency Room Extension (MHERE) and entered into an agreement with the Office of Mental Health (Louisiana Register, Volume 34, Number 8). The department promulgated an Emergency Rule to amend the August 20, 2008 Rule to change the deadline for hospitals to sign an agreement to participate as an MHERE (Louisiana Register, Volume 35, Number 12). This proposed Rule is being promulgated to continue the provisions of the December 20, 2009 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.

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 09-10. It is anticipated that \$246 will be expended in FY 09-10 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 09-10 | FY 10-11 | FY 11-12 |
|-----------------------|--------------|------------|------------|
| PERSONAL SERVICES | | | |
| OPERATING EXPENSES | \$246 | \$0 | \$0 |
| PROFESSIONAL SERVICES | | | |
| OTHER CHARGES | \$0 | \$0 | \$0 |
| REPAIR & CONSTR. | | | |
| POSITIONS (#) | | | |
| TOTAL | \$246 | \$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.

In FY 09-10, \$246 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 09-10 | FY 10-11 | FY 11-12 |
|--------------------|--------------|------------|------------|
| STATE GENERAL FUND | \$123 | \$0 | \$ |
| SELF-GENERATED | | | |
| FEDERAL FUND | \$123 | \$0 | \$0 |
| OTHER (Specify) | | | |
| Total | \$246 | \$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 THIS PROPOSED ACTION.

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 09-10 | FY 10-111 | FY 11-12 |
|---------------------------|--------------|------------|------------|
| STATE GENERAL FUND | | | |
| AGENCY SELF-GENERATED | | | |
| RESTRICTED FUNDS* | | | |
| FEDERAL FUNDS | \$123 | \$0 | \$0 |
| LOCAL FUNDS | | | |
| Total | \$123 | \$0 | \$0 |

**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.

In FY 09-10, \$123 will be collected for the federal share of the administrative 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 rule, which continues the provisions of the December 20, 2009 emergency rule, proposes to change the deadline for hospitals that established a Mental Health Emergency Room Extension (MHERE) to sign an agreement to participate for reimbursement of uncompensated care costs for psychiatric services.

- B. Also, provide an estimate of any revenue impact resulting from this rule or rule change to these groups.

This rule may possibly result in an increase in disproportionate share hospital (DSH) payments for FY 09-10, FY 10-11, and FY 11-12 to some hospitals.