

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Healthcare Services Provider Fees
Hospital Fee Assessments
(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. 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 Management and Finance, amended and repromulgated the regulations governing provider fees for certain health care services pertaining to the administration of fees and the rights and obligations of service providers on whom such fees are imposed (*Louisiana Register*, Volume 33, Number 1). House Concurrent Resolution (HCR) 51 of the 2016 Regular Session of the Louisiana Legislature enacted an annual hospital stabilization formula and directed the Department of Health to calculate, levy and collect an assessment for each assessed hospital. In compliance with HCR 51, the Department of Health, Bureau of Health Services Financing proposes to amend the

provisions governing provider fees to establish hospital assessment fees and related matters.

Title 48
PUBLIC HEALTH-GENERAL
Part I. General Administration
Subpart 1. General

Chapter 40. Provider Fees

§4001. Specific Fees

A. - D. ...

E. Reserved.

F. Hospital Services

1. Effective January 1, 2017, a hospital stabilization assessment fee shall be levied and collected in accordance with Article VII, Section 10.13 of the Constitution of Louisiana and House Concurrent Resolution (HCR) 51 of the 2016 Regular Session of the Louisiana Legislature setting forth the hospital stabilization formula.

a. The total assessment for each state fiscal year shall be equal to, but shall not exceed, the lesser of the following:

i. the state portion of the cost, excluding any federal financial participation, of the reimbursement enhancements provided for in HCR 51, which are directly attributable to payments to hospitals; or

ii. one percent of the total inpatient and outpatient net patient revenue of all hospitals included in the assessment, as reported in the Medicare cost report ending in state fiscal year 2015.

2. The assessment shall be allocated to each assessed hospital on a pro rata basis by calculating the quotient of the total assessment divided by the total inpatient and outpatient hospital net patient revenue of all assessed hospitals, as reported in the Medicare cost report ending in state fiscal year (SFY) 2015, and multiplying the quotient by each assessed hospital's total inpatient and outpatient hospital net patient revenue. If a hospital was not required to file a Medicare cost report or did not file a Medicare cost report ending in SFY 2015, the hospital shall submit to the department its most applicable calendar year total of inpatient and outpatient hospital net patient revenue in a form prescribed by the department.

3. The assessment will be levied and collected on a quarterly basis and at the beginning of each quarter that the assessment is due. Prior to levying or collecting the assessment for the applicable quarterly period, the department shall publish in the *Louisiana Register* the total amount of the quarterly assessment and the corresponding percentage of total

inpatient and outpatient hospital net patient revenue that will be applied to the assessed hospitals.

4. Hospitals meeting the definition of a rural hospital, as defined in R.S. 40:1189.3, shall be excluded from this assessment.

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:

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 no impact on family functioning, stability and autonomy as described in R.S. 49:972.

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.

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, but may increase direct or indirect cost to the provider to provide the same level of service due to provider fees imposed on qualifying ground ambulance service providers. This 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 provider fees adversely impacts the provider's financial standing.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030,

Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, September 29, 2016 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.

Rebekah E. Gee MD, MPH

Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person
Preparing
Statement: Robert Andrepont Dept.: Health
Phone: 342-2339 Office: Bureau of Health Services
Financing

Return P.O. Box 91030
Address: Baton Rouge, LA Rule Title: Healthcare Services Provider
Fees
Hospital Fee Assessments
Date Rule Takes Effect: January 1, 2017

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 a programmatic cost to the state associated with the use of provider fee revenue collections. The Medicaid Program will utilize these provider fee revenues to make additional inpatient hospital provider payments. The cost estimates will be reflected in a separate rule at a later date. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 16-17 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 increase statutory dedicated revenue collections by approximately \$29,460,296 for FY 16-17, \$74,341,689 for FY 17-18 and \$103,301,262 for FY 18-19. In addition, it is anticipated that federal revenue collections will increase by approximately \$394,043,865 in FY 16-17, \$980,649,915 in FY 17-18 and \$1,242,702,220 in FY 18-19. It is anticipated that \$324 will be expended in FY 16-17 for the federal administrative expenses 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 proposed Rule, in compliance with HCR 51, amends the provisions governing provider fees to establish hospital assessment fees. Inpatient hospital expenditures associated with the hospital fee assessment will be reflected in another Rule at a later date.

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 and employment.

Jim Drey
Signature of Agency Head
or Designee *for Jen Steele*

Jen Steele, Medicaid Director
Typed name and Title of
Agency Head or Designee

Bhaskar Indri
DHH/BHSF Budget Head

Evan Brassea, Staff Director
Legislative Fiscal Officer
or Designee

8/10/16
Date of Signature

08/10/16
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, in compliance with HCR 51, amends the provisions governing provider fees to establish hospital assessment fees.

- 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 Management and Finance, amended and repromulgated the regulations governing provider fees for certain health care services pertaining to the administration of fees and the rights and obligations of service providers on whom such fees are imposed (Louisiana Register, Volume 33, Number 1).

House Concurrent Resolution (HCR) 51 of the 2016 Regular Session of the Louisiana Legislature enacted an annual hospital stabilization formula and directed the Department of Health to calculate, levy and collect an assessment for each assessed hospital. In compliance with HCR 51, the Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing 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.

It is anticipated that the implementation of this proposed rule will result in a programmatic cost to the state associated with the use of provider fee revenue collections. The Medicaid Program will utilize these provider fee revenues to make additional inpatient hospital provider payments. The cost estimates will be reflected in a separate rule at a later date. In FY 16-17, \$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 16-17	FY 17-18	FY 18-19
PERSONAL SERVICES			
OPERATING EXPENSES	\$648	\$0	\$0
PROFESSIONAL SERVICES			
OTHER CHARGES	\$0	\$0	\$0
REPAIR & CONSTR.			
POSITIONS (#)			
TOTAL	\$648	\$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 16-17, \$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 16-17	FY 17-18	FY 18-19
STATE GENERAL FUND	\$324		
SELF-GENERATED			
FEDERAL FUND	\$394,043,865	\$980,649,915	\$1,242,702,220
OTHER (Specify)	\$29,460,296	\$74,341,689	\$103,301,262
Total	\$423,504,485	\$1,054,991,604	\$1,346,003,482

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 16-17	FY 17-18	FY 18-19
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
RESTRICTED FUNDS*	\$29,460,296	\$74,341,689	\$103,301,262
FEDERAL FUNDS	\$394,043,865	\$980,649,915	\$1,242,702,220
LOCAL FUNDS			
Total	\$423,504,161	\$1,054,991,604	\$1,346,003,482

**Specify the particular fund being impacted - Statutory Dedicated Revenue*

- 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 increases in statutory dedicated revenue (Louisiana Hospital Stabilization Fund) collections and federal revenue collections to the Department. In FY 16-17, \$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, in compliance with HCR 51, amends the provisions governing provider fees to establish hospital assessment fees.

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

Inpatient hospital expenditures associated with the hospital fee assessment will be reflected in another Rule at a later date.

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 and employment.